SENATE—*Wednesday, November 30, 1994*

(Legislative day of Monday, September 12, 1994)

The Senate met at 9 a.m., on the expiration of the recess, and was called to order by the President pro tempore [Mr. BYRD].

The PRESIDENT pro tempore. The prayer will be led by the Senate Chaplain, the Reverend Dr. Richard C. Halverson.

Dr. Halverson, please.

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray:

O the depth of the riches both of the wisdom and knowledge of God! How unsearchable are His judgments, and how inscrutable His ways! For who hath known the mind of the Lord? or who hath been His counselor? Or who hath given a gift to Him that it should be repaid? For from Him, and through Him, and to Him, are all things: to whom be glory for ever. Amen.—Romans 11:33–36.

Eternal God, infinite in wisdom, power, and love, make each of us aware of Thy presence in this Chamber at this critical time. Grant to each Senator a mighty visitation of Thy holy will. Thou knowest the circumstances which have brought us to this hour. Thou knowest the profound implications for the future of the Nation and the world, implicit in the issue confronting the Senate in this special session. Thou knowest the minds and hearts of the Senators, their own convictions and the pressures, pro and con, imposed upon them, as well as the challenge of the unknown.

Let the light of God's truth illuminate their minds, give them insight and courage to obey their conscience. And may Thy will be done here today as it is in Heaven.

To the glory of God and the welfare of the Nation. In the name of the King of Kings and the Lord of Lords. Amen.

RECOGNITION OF THE MAJORITY LEADER

The PRESIDENT pro tempore. The majority leader is recognized.

THE SCHEDULE

Mr. MITCHELL. Mr. President and Members of the Senate, pursuant to a prior order, the Senate will shortly proceed to consideration of the implementing legislation for the Uruguay round trade agreement. Under Senate rules, there will be 20 hours for debate on that agreement. I will address the subject shortly in more detail.

However, prior to that time, it will be the pleasure of the Senate to observe the swearing in of the newly elected Senator from Oklahoma, who is present with his colleague.

I would like at this time to yield to my friend and the acting Republican leader to introduce the newly elected Senator.

RECOGNITION OF THE ACTING REPUBLICAN LEADER

The PRESIDENT pro tempore. The Senator from Wyoming [Mr. SIMPSON] is recognized.

TRIBUTE TO SENATOR MITCHELL

Mr. SIMPSON. Mr. President, I thank the Chair. I thank the majority leader and express the gratitude of the leader, Senator DOLE, who will be with us tomorrow. He is in Brussels.

I express to the majority leader his appreciation for extraordinary kindness, cooperation, and support through these last years and wish the majority leader Godspeed in his new activities at the conclusion of this special session.

I personally say that it has been a great personal privilege for me to work with the majority leader, who I came to know and with whom I served on two committees, who I found to be extraordinarily fair, extraordinarily able, slightly partisan, and one of the rare and extraordinary people who populate this Chamber from time to time. His name will be high on the list of those we have come to respect and admire.

INTRODUCTION OF SENATOR-ELECT JAMES M. INHOFE

Mr. SIMPSON. Mr. President, let me now introduce our new Republican Senator from Oklahoma, JIM INHOFE, who is a most extraordinary man, a businessman, pilot, raconteur, and an energetic Congressman who had a very remarkable race and did a very able job in presenting himself to the people of Oklahoma.

He and his wife Kay are great additions to the Senate family. I know the leader and his charming wife and those of us on the other side of the Senate, the family of the Senate, will enjoy greeting JIM INHOFE and Kay.

I then would say that his senior colleague, the senior Senator from Oklahoma, Senator NICKLES, will accompany him as he takes the oath of office. We are well aware in our party and in the Senate of the very remarkable abilities of the senior Senator from Oklahoma, who serves as part of our leadership.

With that, we are ready to proceed with the swearing-in ceremony.

SENATOR FROM OKLAHOMA—CREDENTIALS

The PRESIDENT pro tempore. The Chair lays before the Senate a Certificate of Election for Unexpired Term, of the Senator-elect JAMES M. INHOFE, of the State of Oklahoma, caused by the resignation of Senator Boren.

Without objection, it will be placed on file, and the Certificate of Election will be deemed to have been read.

The Certificate of Election for Unexpired Term is as follows:

CERTIFICATE OF ELECTION FOR UNEXPIRED TERM

To the President of the Senate of the United States

This is to certify that on the 8th day of November, 1994, James M. Inhofe was duly chosen by the qualified electors of the State of Oklahoma as Senator for the unexpired term ending at noon on the 3rd day of January, 1997, to fill the vacancy in the representation from said State in the Senate of the United States caused by the resignation of Senator David L. Boren.

Witness: His excellency our Governor David Walters and our seal hereto affixed at Oklahoma City, Oklahoma this 15th day of November in the year of our Lord 1994.

CEREMONY OF ADMINISTRATION OF OATH OF OFFICE TO JAMES M. INHOFE AS SENATOR FROM THE STATE OF OKLAHOMA

The PRESIDENT pro tempore. If the Senator-elect will now present himself at the desk, the Chair will administer the oath of office as required by the Constitution of the United States and prescribed by law.

Mr. INHOFE, escorted by Mr. NICKLES, advanced to the desk of the President pro tempore; the oath prescribed by law was administered to him by the President pro tempore; and he subscribed to the oath in the Official Oath Book.

[Applause, Senators rising.]

RECOGNITION OF THE MAJORITY LEADER

The PRESIDENT pro tempore. Without objection, the majority leader is recognized under the standing order.

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

ORDER OF PROCEDURE

Mr. MITCHELL. Mr. President, I am advised that Senator INHOFE wishes to make a brief statement and, for that purpose, I now yield to the acting Republican leader, who I understand will yield him time from the Republican leader's leader time for that purpose.

The PRESIDENT pro tempore. Without objection, it is so ordered.

AN IMPRESSIVE CEREMONY

Mr. SIMPSON. Mr. President, as always an impressive ceremony. The occupant of the chair does it in a way which has always impressed all of us. The oath of office is sometimes not easily said. I have often seen people use cards and memos. Our President pro tempore uses none of those support devices and it is always a more impressive ceremony.

Now I would yield 4 minutes of the leader's time to the new junior Senator from the State of Oklahoma.

The PRESIDENT pro tempore. The Chair recognizes the junior Senator from the State of Oklahoma for 4 minutes.

Mr. INHOFE. I appreciate that, Mr. President.

AN AWESOME RESPONSIBILITY

Mr. INHOFE. Mr. President, I have heard that mixed emotions is what you experience when your teenage daughter comes home at 3 a.m. with a Gideon Bible under her arm. And I must admit, I have some mixed emotions when I look at this awesome responsibility that I am undertaking at this time.

For one thing, it just occurred to me this morning, Senator COATS, even though I have been involved peripherally in politics as well as the private sector for some 30 years or longer, I have never been a majority, so I am not sure how to act as a majority and will try to act right.

It occurred to me also that I spent 8 years in the other body down the hall learning how to condense 30 minutes into 2 minutes, only to come over here and find I can now extend the 2 minutes back to 30 minutes.

I think I would be remiss if I did not make a reference to the man that I am replacing here, Senator BOREN. There is only one person in this Chamber who knows the close relationship that has existed for many years between Senator BOREN and myself.

Mr. Leader and Mr. President, we were both elected in 1966 and for many years, while I was in the State Senate he was in the Statehouse, we tried to pass and propose most of the reforms in Oklahoma at that time. And I want to tell Senator BOREN, who is now the president of Oklahoma University, who is probably watching at this moment, that I will continue to try to complete those tasks which he so ably began.

I think I would also be remiss if I did not respond to the wake-up call that hit us all on November 8. I think that the new group that is coming in—I will be one of 11 new Members—perhaps will be a little bit more assertive in our style than some of you are used to around here, but I think that we have to look back and see that this is not just a normal time in our country.

Henry H. Beecher said, "I don't like those precise, perfect people, who, in order not to say wrong, say nothing, and, in order not to do wrong, do nothing."

I commend to these people who are here today: I will not do nothing.

I think also that when you look at what the message was that came to us, we have to think of Winston Churchill, who said, "Truth is incontrovertible . . . panic may resent it . . . ignorance may deride it . . . malice may destroy it . . . but there it is."

And the truth is, people are saying we have got to make changes. We have to rebuild the decimated defense system, we have to get tough on crime, we have to do the things that we have talked about doing but have not done in the past. And I think also that we have got to stop denying the relationship between the soaring crime rate, the soaring drug addiction rate, and we cannot deny the relationship between those perverted behaviors that have kind of taken over this country, and the fact that there was a well-meaning but flawed decision made back in the early sixties when we expelled God from school.

Last, I would be remiss if I did not acknowledge that there are many important people here in this Chamber, but the more important people are in the upper level of this Chamber in the family galleries up here. These are the ones that worked so hard.

And not just my wife Kay, who has endured me for the last 35 years, but also the shiny faces. There are probably more Oakies than we have ever had in this Chamber. And these shiny faces represent thousands who are not here today and could not be here who fought in the trenches in this revolution that took place on November 8. I can tell you now, and I commit to you, that the work that you have endured will not go unanswered by my inaction. I will not let you down. And this goes for the rest of you here—I will not let you down.

So, Mr. President, and fellow Members, it is with a great deal of humility that I thank you for your receiving me into the U.S. Senate.

URUGUAY ROUND AGREEMENTS ACT

The PRESIDENT pro tempore. Under the previous order, the Senate will now proceed to the consideration of H.R. 5110, which the clerk will report.

The legislative clerk read as follows:

A bill (H.R. 5110) to approve and implement the trade agreements concluded in the Uruguay round of multilateral trade negotiations.

The Senate proceeded to consider the bill.

The PRESIDENT pro tempore. The Chair recognizes the majority leader.

Mr. MITCHELL. Mr. President, and Members of the Senate, under the Senate rules there will now be 20 hours for debate on this agreement. I announced in October that I expect that we will complete 12 hours of debate today and the remainder tomorrow. I hope that any votes which occur with respect to this agreement will occur at the conclusion of those 20 hours of debate or at approximately 6 p.m. tomorrow.

Under the rules, the majority leader has control of 10 hours of time and the minority leader 10 hours of time.

Mr. President, I designate to control the 10 hours of the majority's time Senator MOYNIHAN 5 hours in behalf of proponents of the legislation and Senator HOLLINGS 5 hours in behalf of opponents of the legislation.

Mr. President, I now would like to address the Senate on the subject and I ask unanimous consent to use such portion of my leader time as is necessary for that purpose.

The PRESIDENT pro tempore. Without objection, it is so ordered. The Senate will be in order.

Mr. MITCHELL. Mr. President, I will make a detailed statement tomorrow just prior to the vote, but I wanted to begin this discussion by stating my strong support for the implementing legislation for the Uruguay round trade agreement. I urge the Senate to pass it.

This historic agreement is essential to our economic future. It will open foreign markets to American goods and services. It will reduce protectionist foreign trade barriers. It will protect the intellectual property rights of American individuals and enterprises. It will expand export opportunities for our agricultural products.

It will create new opportunities for American businesses and farmers to compete and sell more in foreign markets. It will benefit consumers by lowering tariffs that increase the purchase price of consumer goods.

A prosperous international community is in the best national interest of the United States.

That has been the goal of American policy throughout much of this century. Since the end of the Second World War, we have pursued that policy goal by working for a free, open, and fair international trading environment.

Beginning in 1947, our Nation, together with 22 others, negotiated the General Agreement on Tariffs and Trade. Its purpose was to reduce tariff barriers and establish international trading rules. The General Agreement

first entered into force in January 1948. It remains the only multilateral agreement governing international trade.

Six subsequent rounds of trade negotiations have occurred since 1948, the last in 1979. These agreements lowered both tariffs and nontariff barriers, eliminated quotas and refined trade rules to respond to new products and trading patterns.

Since 1948, the world trading nations have worked to further reduce tariff and nontariff barriers and to further refine the world trading rules. The Uruguay round agreement is simply a comprehensive improvement of the previous seven rounds of multilateral trade negotiations.

Eight years ago, the negotiations on this agreement began in Punta del Este, Uruguay. For 7 years, three successive American Presidents, Presidents Reagan, Bush and Clinton have negotiated this trade agreement.

Congress has repeatedly supported these efforts by renewing fast track negotiating authority in 1988, 1991, and 1993 to allow our trade negotiators to conclude the agreement.

Last December 15—almost 1 year ago—the negotiators concluded the agreement, and President Clinton notified Congress that he intended to enter into the Uruguay round agreement.

There is no basis for a further delay in approving the implementing legislation until next year. The international trading system under the General Agreement on Tariffs and Trade took effect more than 46 years ago. A global trading system is not a new and untested concept: It has been an integral factor of our economic policy, working for our producers and exporters for almost five decades.

Congress has reviewed the Uruguay round agreement thoroughly. There have been numerous congressional hearings and extensive reports on the meaning and impact of this agreement on the United States. Almost every aspect of this agreement has been carefully examined and debated.

It is important that Congress approve this trade agreement this year so that American businesses can take advantage of the expanding opportunities in the international marketplace and American workers can enjoy the new jobs to be generated by expanded trade.

A delay would undermine our economic self-interest.

Economists estimate that when the Uruguay round agreement is fully implemented, the American gross domestic product will increase between $100 and $200 billion every year. That growth will produce hundreds of thousands of new jobs for American workers.

But delaying the implementation of this trade agreement will, in the best case, cost both U.S. businesses and consumers billions of dollars in increased sales to foreign markets and higher prices on consumer goods. In the worst case, a delay in implementing this agreement will kill the agreement itself and undermine the future of the world trading system.

It is an agreement which our American self-interest dictates that we approve, and that we approve now. I urge my colleagues to vote for it.

I thank my colleagues for their attention and, Mr. President, I would like now to yield to the distinguished chairman of the Senate Foreign Relations Committee, Senator MOYNIHAN, who has so skillfully guided this legislation to this point.

Mr. EXON. Will the majority leader yield for a question?

Mr. MITCHELL. Yes, certainly.

Mr. EXON. Mr. President, I ask this question. I think the answer will be that I will have to rely on the good offices of my colleague.

Debate in the U.S. Senate is supposed to have something to do with the outcome of the final vote. That is not always the case, but we continue to think that debate is important in the Senate.

Mr. MOYNIHAN. Frequently.

Mr. EXON. What do we have to do, those of us who have not made up our minds whether we are opponents or proponents? Do we just have to rely on the good offices of the body to yield us whatever time we need before we make a commitment as to which way we are going to vote?

Mr. MITCHELL. The answer is yes. But I will also say that I will be pleased to work with my colleague and with the distinguished managers—who I am certain will be helpful and cooperative in that regard.

Mr. HOLLINGS. Will the majority leader yield so I can announce?

Mr. MITCHELL. Yes.

Mr. HOLLINGS. Mr. President, in that we have been assigned 5 hours in the opposition on this side of the aisle, after talking with the different colleagues, the consensus, the thought was, that we would consume 3 hours today during the 12-hour period and 2 hours tomorrow. So, restricting us just to 3 hours, we have assigned momentarily—and I hope to keep to this but I do not have much time left: Senator BYRD, 25 minutes; Senator METZENBAUM, 20; Senator DORGAN, 20; Senator BAUCUS, 20; Senator WELLSTONE, 15; Senator BRYAN, 15, Senator HEFLIN, 15; Senator HARRY REID, 15; and 25 minutes to myself to manage it. That consumes the time.

If some come now and want some time today, we might have to pare back a few minutes or otherwise put them over to tomorrow.

I thank the majority leader and distinguished chairman and ranking members on both sides for allowing me this moment. We are trying to give everybody time and deal it out equally.

For those who have not made up their minds, they can listen. Thank you.

Mr. MITCHELL. I yield to my colleague from my time.

Mr. EXON. I further inquire—I do not appreciate the last remarks, probably said in jest, by my friend and colleague from South Carolina, with whom I worked long and hard, and put in a lot of time on this. I would simply say that I recognize the pressures that are brought to bear on someone who controls time. That is why I brought up the suggestion. And, despite the feelings of the Senator from South Carolina, my distinguished friend, there are those of us who reserve the right to make up our minds during the debate.

I know that is a revolutionary idea to place in the U.S. Senate, when generally we choose up sides and we have to come in here and beg for time unless we have committed to one side or the other.

I would hope, Mr. President, that maybe some time could be yielded to the relatively few of us who reserve the right to make up our minds after debate. I think that the Senate is intended to run that way. But as we all know, it does not.

I simply say that the rights of the minority have to be protected, the rights of those of us who have not yet made up our minds have to be protected, notwithstanding some of the arrogant views of those who have already made up their minds.

Mr. MITCHELL. Mr. President, I will see that the Senator is accommodated.

Mr. EXON. I thank the majority leader.

The PRESIDENT pro tempore. Without objection the time will now begin running.

Who yields time? The Senator from New York [Mr. MOYNIHAN].

Mr. MOYNIHAN. Mr. President, I will yield myself 10 minutes to get our debate going and take the occasion to assure my friend from Nebraska that he will have time to speak and time to listen and participate. This is a deliberative process and it would please him to hear, I think—and I shall speak of it in just a moment—that one of the most distinguished and respected constitutional lawyers, professors of constitutional law in the United States, Laurence Tribe, who presented a brief basically in opposition to this legislation on the grounds that it should be a treaty, has now written to us to say he has thought it over and changed his mind.

This is a deliberative process and new information, new argument brings new perspective. That is what we would hope to do.

Mr. President, I ask unanimous consent that the letter by Professor Tribe concerning the present legislation before us be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

HARVARD UNIVERSITY LAW SCHOOL,
Cambridge, MA, November 28, 1994.

To Hon. GEORGE J. MITCHELL; Hon. ROBERT DOLE; Hon. ERNEST F. HOLLINGS; Hon. LARRY PRESSLER; Hon. THOMAS S. FOLEY; Hon. NEWT GINGRICH; Hon. RICHARD A. GEPHARDT; Ambassador Michael Kantor; Assistant Attorney General Walter Dellinger.

From Laurence H. Tribe.

Re treaty ratification of the GATT Uruguay round.

I have read with care the thorough and thoughtful memorandum of November 22, 1994, from Assistant Attorney General Walter Dellinger to Ambassador Michael Kantor on the question whether the Uruguay Round Agreements concluded under the auspices of the General Agreement on Tariffs and Trade (the "GATT") must be ratified as a treaty. A number of the arguments advanced in this most recent memorandum require me to give further consideration to the conclusions I have previously expressed on the subject of the Uruguay Round Agreements in letters and memoranda to President Clinton; Assistant Attorney General Dellinger; Abner J. Mikva, Counsel to the President; and Senators GEORGE J. MITCHELL, ROBERT DOLE, and ROBERT C. BYRD; and in my testimony before the Senate Commerce Committee on October 18, 1994. The newest memorandum from Assistant Attorney General Dellinger offers a level of analysis far superior to that previously set forth by the Administration and is thus testimony to the Administration's serious consideration of the constitutional questions raised by the Uruguay Round Agreements and by the manner of their approval. At the moment, candor compels me to concede that reasonable minds may differ on the proper resolution of the constitutional questions posed by the GATT. In short, the issue is a close one. Although I continue to believe that the constitutional concerns that I have previously raised are deeply important, I cannot say with certainty that my prior conclusions should necessarily be adopted by others or are ones to which I will adhere in the end after giving the matter the further thought that it deserves.

I do not mean to give my own views undue importance, but the prospect that my earlier statements might have some effect, however slight, in the debates in the House of Representatives on November 29, 1994, and in the Senate on December 1, 1994, would make it inappropriate for me not to express this substantial caveat. Although I will be writing again on the subject in a forthcoming article scheduled to appear in the Harvard Law Review in the spring of 1995, that analysis obviously will not come in time to be of any use in the impending debate.

I should perhaps explain that the strength with which I previously expressed my negative conclusions on this subject were in part a reaction to the weaknesses (as I continue to perceive them) of the arguments previously marshaled on the other side, both by the Administration and by scholars who have come to its defense with constitutional arguments that have struck me as both shallow and contrived. In my future writing on the subject, I will be interested in exploring what I regard to be the troublesome character of these constitutional analyses, itself symptomatic of problems in contemporary constitutional discourse. For now, however, although it might be less embarrassing for me simply to say nothing, I regard it as my responsibility, in light of Assistant Attorney General Dellinger's recent forceful analysis, to say that I believe the Clinton Administration has based its position on the Uruguay Round Agreements on constitutional arguments that are both powerful and plausible. It would therefore be incorrect to quote or to rely upon my earlier contrary views without adding this important qualification.

In closing, I reiterate the suggestion that I made to the Senate Commerce Committee that the Senate give serious thought to the constitutional role delegated to it by the Treaty Clause of Article II. Although the GATT will likely be approved on a "fast track," the Senate constitutional role in treaty ratification deserves further, sustained consideration.

Mr. PACKWOOD. Mr. President, may I just make a brief announcement?

Mr. MOYNIHAN. Do, sir. I yield to my colleague.

Mr. PACKWOOD. Mr. President, I will be managing the time on the Republican side, and we will be dividing the time evenly between those who support and those in opposition, so I will be allocating the time to both proponents and opponents on our side. I will do the best I can to allocate it fairly. But I would suggest this—and we have all seen this. But my hunch is that at about 3:30 or 4 o'clock tomorrow——

Mr. MOYNIHAN. Tomorrow——

Mr. PACKWOOD. All kinds of people are going to come and want time. The majority leader—or minority leader now, soon to be majority leader—Senator DOLE, wants some time. I will want some time, closing time. For all of those who wish to speak, we would rather have them speak today rather than tomorrow, and as we get close to the end of time tomorrow it may be difficult to work everybody in.

The PRESIDENT pro tempore. The Senator from New York has the floor.

Mr. MOYNIHAN. I thank my friend, as I have frequently said, the once and future chairman. I did not think he would be future chairman in that early a future. And I expect around 11 o'clock we will be looking for colleagues who wish to comment and there you are.

PRIVILEGE OF THE FLOOR

Mr. MOYNIHAN. Mr. President, I ask unanimous consent that Eileen Hill, from the staff of the Committee on Finance, have privilege of the floor during the consideration of this legislation. Miss Hill is a legislation fellow with the committee.

The PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. MOYNIHAN. Mr. President, on July 8, 1916, in a speech on the House floor, Cordell Hull, then a young Congressman from Carthage, TN—the same town from which our distinguished Vice President, Presiding Officer in exceptional circumstances comes—called for a permanent international trade congress.

It was a hugely prescient idea. He understood that the inability of the European powers—the established ones—to accommodate the enormously increased economic importance of Germany had, in considerable measure, led to the First World War.

He saw that trade was a source of conflict as far back as conflict is recorded and that it should be subject to the same kinds of rules and procedures internationally that we had established in our internal arrangements.

Our Constitution is very careful to see that trade disputes, which are really the bulk of the litigation that takes place in our courts, are given validity across State boundaries and that the trading partners, knowing that whenever disputes arise, if litigated, the decisions will be held valid everywhere in the Union, are all the more disposed to entering such contracts. This is a point which Alexander Hamilton made in his Report on Manufacturers given to the Congress in 1791.

Hull saw the extension of this great understanding to a world market. That was the beginning of the century. Two vast wars and much turmoil in between bring us to the end of the century and to the completion of that vision. It reached its nadir in 1930 when, in the Smoot-Hawley Tariff Act of that year, we raised tariffs to an average of 60 percent in our country. Imports dropped by two-thirds; exports dropped by two-thirds; the British went off free trade, establishing a colonial empire's imperial preference; the prosperity feared in Japan began. In 1933, in a parliamentarily correct election, Adolf Hitler became chancellor. War was 6 years away—5. Not even that, Mr. President.

(Mrs. FEINSTEIN assumed the chair.)

Mr. MOYNIHAN. Madam President, in 1934, Cordell Hull began the reciprocal trade agreements program, an arrangement whereby the Executive could enter trade agreements and Congress would approve. It was a brilliantly innovative device, and every President, Madam President—whom we welcome back in glory—every President since has held to this proposal, this basic construct.

It cannot be too much stated or stressed that the agreement before us today was proposed under President Ronald Reagan, to whom we send the great good wishes of the Senate on this first occasion that we have met since his announcement of his illness. It was largely negotiated by President Bush's representatives, notably Carla Hills, who has been indomitable in support of this measure, and it was concluded, as the majority leader observed, a year ago in Geneva. The formal signing took place in Marrakesh in Morocco this spring, but the work was done a year ago. It took a long time to do it, 3 years longer than expected, because more was done than in past trade agreements.

Most important, we have brought agricultural interests into the GATT. I

hope the Senator from Nebraska will take note of that, that agricultural products are now under the GATT. They have never been previously; it has been a manufactured goods affair. And the export subsidies which have so bedeviled our exports of agricultural goods are to be severely cut back, a concession finally made from the European Union, which is one of the reasons this bill comes to us 3 years later than originally expected.

The bill provides protection for intellectual properties, our largest growth industries in this country, which have been bedeviled by widespread piracy, and it creates a WTO. This World Trade Organization is no more than a rather pale image of the International Trade Organization which was contemplated at the end of World War II. The Bretton Woods agreements of 1944 proposed the International Bank for Reconstruction and Development, which we know as the World Bank and the International Monetary Fund; they did not get to the details of an international trade organization, but they clearly anticipated that one would be proposed and adopted.

President Truman did, indeed, propose that there be such an organization with many more powers than the WTO will have. It failed of adoption in the Congress. The House Foreign Affairs Committee never acted, principally due to opposition in the Senate Finance Committee, as the distinguished former chairman, future chairman knows.

Madam President, there has been a great deal of talk about this new organization as if it is something very new and very large and threatening. May I make the simple point that the GATT, which began, in the absence of an ITO, as simply an informal arrangement—a British Treasury official, Eric Wyndham-White, whom I had the privilege to know, with just a small secretarial staff, ran it on a very informal basis—over 40 years, the staff of the General Agreement on Tariffs and Trade has reached 450 persons. The staff estimates that, with the new responsibilities that the World Trade Organization will devolve onto the GATT in consequence, the 450 would acquire 15 additional employees.

Four hundred sixty-five persons in the WTO. Madam President, that is one-third the size of the Capitol Police force, scarcely a daunting prospect of world government. The dispute settlement decisions that were made in the GATT were arbitration decisions really, given agreements, given the rules. Over the last 40 years, there have been about four such cases a year that have come to be completed.

Under the GATT arrangement, there was a veto, and, for example, Europeans on agricultural products were repeatedly saying, "Well, yes, the panel decided the American exports were being unfairly discriminated against, but we even so will not accept it."

Madam President, I yield myself 5 additional minutes which I may not need.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MOYNIHAN. Madam President, I simply make the point that we are not creating anything new in this World Trade Organization. We are simply codifying the practice of consensus, which has been the practice of the GATT.

May I make the point that I wonder if my friend from Oregon knows: That there has not been a vote in the GATT for 35 years. Yes, this is not a litigious organization in that sense. When there is a dispute—and contract disputes are the bread and butter of the American judicial system, and properly so—the parties concerned pick nonpartisan arbiters from other countries. They make their case and may live with the results. That is what a system of law is about.

Finally, Madam President, it was the view earlier in a brief by Laurence Tribe, who is a professor of constitutional law at Harvard University Law School, that the WTO needed to be a treaty. That it should be a treaty sent to us by the President and decided here in the Senate, not at all in the House, even though the WTO is an article I issue. Commerce and revenue are its principal features. Until the income tax, our principal source of revenue was tariffs. They are taxes.

This is a tax cut before us. Treating this matter as a treaty would keep the House out of this and confine it to the Senate, contrary to the practice since 1934. Contrary to the repeated times, this Senate has confirmed and reconfirmed the propriety of reciprocal trade agreements and the approval of trade tariff schedules by legislation. Professor Tribe thought otherwise.

Just yesterday, in a memorandum sent to the majority and minority leaders and the honorable chairman of the Commerce Committee, Senator HOLLINGS, and others, Professor Tribe observed that he had read the memorandum from the Assistant Attorney General, Walter Dellinger, also a professor of constitutional law, and had been thinking about it. And on reflection, he writes, that the memorandum from Assistant Attorney General Dellinger offers a level of analysis far superior to that previously set forth, and thus is testimony to the administration's serious consideration of the constitutional questions raised. And then I quote:

> At the moment, candor compels me to concede that reasonable minds may differ on the proper relation of constitutional questions posed by the GATT. In short, the issue is a close one although I continue to believe that the constitutional concerns that I have previously raised are deeply important. I cannot say with certainty that my prior conclusions should necessarily be adopted by others, or that I will adhere to them at the end after giving the matter further thought that it deserves.

In a word, Madam President, the brief in opposition has been withdrawn. I think that is a good spirit of open inquiry with which to begin this debate. The legality and constitutionality of our procedures, in place for two-thirds, or more than half a century, 60 years, is not in question. The wisdom of our action is scarcely in doubt. Yesterday, by a 2-to-1 majority, the House approved this agreement. It now comes to us. It has been reported from the Committee on Finance 19 to 0. It is in the tradition of bipartisan trade policy. It is the largest trade agreement in history. It sets in place the institutional arrangements that will keep the peace after the long cold war, after the tormented 20th century.

Madam President, I urge the adoption of this legislation.

Mr. President, on July 8, 1916, in a speech on the House floor, Cordell Hull, then a Democratic Congressman from Tennessee, called for a "permanent international trade congress" to formulate agreements to dismantle destructive trade practices. Today, over 78 years later, it is with great honor that I, as chairman of the Committee on Finance, bring to the floor of the Senate legislation that will finally realize that vision.

Mr. President, over the past several weeks, a number of persons have observed, quite accurately, I believe, that we are about to cast a vote of monumental importance—on a par with the historic and defining votes on the League of Nations and the Marshall plan. The legislation that we take up this morning will approve and implement the largest, most comprehensive trade agreement the international community has yet witnessed. If this Senate approves the Uruguay Round Agreements Act, as I fully expect it shall, that action will represent nothing less than the culmination of 60 years of American trade policymaking—policymaking that began with Cordell Hull's Reciprocal Trade Agreements Program in 1934 and that has, ever since, been carried out in the best bipartisan traditions of this body.

Mr. President, it was only 8 years ago, September 1986, in Punta del Este, Uruguay, that trade ministers from around the world gathered to launch the eighth round of multilateral trade negotiations under the auspices of the General Agreement on Tariffs and Trade—the GATT, a provisional arrangement that has served as a forum for trade agreements since 1948.

The ministers' goals were ambitious—indeed, too ambitious for the timetable they contemplated. They sought to strengthen the rules governing international trade, to bring trade in agriculture, services, and textiles under the rules, to protect intellectual property and trade-related investment.

Such far-reaching objectives could not be reached in 4 years, as they had planned. Not until December 1993, rather than 1990, was final agreement struck. But that agreement was one that largely achieved their objectives.

Objectives, I must point out, that were both shared and guided by the Congress of the United States. The Congress laid down the United States objectives for the Uruguay round in the Omnibus Trade and Competitiveness Act of 1988, goals shared by the executive branch and sought by negotiators under three American Presidents, Republican and Democrat alike. I am pleased to report that, as a result of the endeavors of the administrations of Presidents Reagan, Bush, and Clinton, in close consultation with the Congress, the agreement before us today largely meets the standards set forth by the Congress 6 years ago. Not in total, we must acknowledge, as I suppose the objectives of other countries were likewise qualified in the give-and-take of negotiation. But met in large part.

Optimistic reports on the economic impact of the Uruguay round abound. The GATT organization itself estimates that, in 10 years' time, U.S. gross domestic product [GDP] will increase by $122 billion annually as a result of this agreement. Our own Council of Economic Advisors estimates an annual increase in U.S. GDP of $100 to $200 billion. Other studies suggest smaller increases, but it is notable that all economic analyses are positive—a singular event in the world of economists.

The economic benefit of many aspects of the Uruguay round, such as improved intellectual property protection and rules for services trade, are difficult to quantify here and now. But its simplest aspect alone presents a compelling case—that is, the nearly $750 billion in tariff, meaning tax, cuts to be made worldwide. The largest tax cut in world history. A tax cut of $32 billion over 10 years on products imported into this country alone. And an average tax cut of 40 percent on the products we export to the rest of the world. I would ask my colleagues: What other economic measure could we consider with such far-reaching effect?

Most importantly, the Uruguay round means jobs—300,000 to 700,000 more American jobs once fully implemented. And these will be good jobs, for jobs engaged in producing exported goods typically pay 13 percent more than the average.

Much will be made during this debate, I expect, of the decline in manufacturing jobs over the last decade, attributing such in large part to the failings of American trade policies. Indeed, employment in manufacturing has declined between 1979 and 1993—falling from 21 to 18 million—even though employment in the non-agricultural sector of the economy has increased by almost 25 percent. But why, we must ask?

In significant part because American companies have succeeded in becoming the most productive in the world. From 1979 to 1993, while manufacturing employment declined by 14 percent, productivity increased substantially so that industrial production in the manufacturing sector increased by 38 percent. The result—more output, fewer workers. Repeating our experience in agriculture, where the mechanization of production released thousands of workers from the field: in 1930, over 21 percent of America's workers were engaged in agricultural production, but by 1993, less than 3 percent of the work force was employed in the farm, forest, or fishery sectors—and less than 1 percent of the work force was employed as farmhands.

In these circumstances, difficult as they may be for the workers affected, we should look upon trade not as the villain, but as an opportunity. Trade among countries should not be avoided; indeed, it cannot be avoided in an open society, any more than can be the effect of advancing communications or innovative technologies. If we approach trade as friend, rather than foe, we will find ways to sell more of our goods abroad, employing more rather than fewer Americans.

In fact, the United States is in the best position among trading nations to take great advantage of the more open markets that come with the Uruguay round. For the United States today is at the height of its global competitiveness. Americans should note with some degree of satisfaction the recent report of the World Economic Forum which rates the United States as the world's most competitive nation. We have returned to the top ranking for the first time since 1985, Japan now a distant second.

Of this fact I would remind those who have voiced concerns about the impact of this agreement on U.S. sovereignty. There are legitimate concerns here, which have been legitimately addressed. Again in a bipartisan fashion. But others who speak of a loss of sovereignty prey on the fears of American workers, uncertain about their future in a global economy. Let us remind American workers of their ability to think, create and innovate, not to fail or fall prey to outside forces beyond their control. That is not the kind of thinking by which American workers built the most competitive economy in the world. Nor is there reason to succumb to such thinking now.

Rather, we must remember that our economy is the largest single market in the world, a market which others seek, recognizing its value. To those who fear that we will constantly be out-voted in the new World Trade Organization, established in the Uruguay round, I would say that there is little reason for concern. The WTO simply codifies the practice of consensus in the GATT and there has not been a vote in the GATT on a trade policy matter for 35 years. To those who suggest that the WTO will have the power to override our own governing of our market, I would say but one thing—look to the Constitution. We yet govern ourselves, with the authority to regulate commerce with foreign nations given to the Congress. And with the Congress also rests the authority to take the necessary and proper steps to carry out international agreements, as recognized by the Supreme Court in the seminal Missouri versus Holland decision—on a migratory bird convention, of all matters—in 1920.

It is the Congress which, since the disaster of the Smoot-Hawley Act of 1930, has chosen with care the arrangements whereby U.S. trade policy is made. Having learned the lessons of Smoot-Hawley—the two-thirds drop in trade that followed, worldwide depression, the rise of totalitarian regimes, and in the wake of such events, the Second World War.

In the aftermath of such, the Congress sought a better arrangement for trade policymaking in this country. Beginning with the Reciprocal Trade Agreements Program of 1934, the Congress has determined that the President should negotiate liberalizing trade agreements and the Congress should embody those agreements in legislation which it considers, debates, and votes on. In 1974, the Congress chose to create special procedural rules—we know them today as the fast track—to ensure that these trade liberalizing policies would continue.

But these arrangements do not preclude the Congress from performing its constitutional duties of regulating foreign commerce. Indeed, the Congress has chosen these arrangements in the belief that they best serve our commercial interests. Likewise, mechanisms have been created with this implementing bill to ensure that the congressional voice is heard should the World Trade Organization not serve American interests. Congress will have the opportunity to demand withdrawal from this organization on 6 months' notice as permitted under the agreement itself.

Indeed we should withdraw if the worst fears of the opponents are realized. If foreign governments pursue repeated, and unfounded, challenges to U.S. law. But that is not the likely scenario. The United States is not a protectionist country. And it is those countries which are so that must be concerned about the WTO, not the United States.

We seem to forget that it was the United States, and the Congress in the 1988 Trade Act, that sought the strengthened rules that come with the

World Trade Organization. Why? Because although we consistently have been more successful than the average in GATT litigation, we have too often been frustrated in our successes. During the period leading to the passage of the 1988 Trade Act, we won three GATT cases against the Europeans—on pasta, citrus, and canned fruit—only to be frustrated by their stalling tactics. The European Community blocked the adoption of those three panel reports, preventing formal GATT approval of the panel's decisions. And throughout 1988, the Europeans first blocked and then further delayed the establishment of a dispute settlement panel to hear a U.S. challenge to EC production subsidies on oilseeds. Four cases, all of great consequence to our agricultural community. Is it any wonder that the Congress, in 1988, urged our negotiators to achieve a more effective and expeditious dispute settlement system?

Under the new WTO rules, these stalling tactics will not be allowed. And the United States, I might note, has nothing to fear from a tougher dispute settlement system. We have been victorious more often than most under the GATT, and there is every reason to expect that trend to continue. Under the GATT, we have prevailed in 70 of the 87 cases that we have brought. That is a remarkable success rate of roughly 80 percent. When challenged, we have also prevailed more than most—in 55 of the 75 cases brought against us, or nearly 75 percent of the time.

Most important, we should keep in mind that, in the first 43 years of the GATT, there have only been 88 panel decisions. If we include the cases that did not culminate in panel decisions, that number grows to 207. That averages to less than five cases a year. There is thus no grounds for fearing that hundreds of our laws will be challenged in the WTO.

Thus, the crucial fact to be remembered: It is the United States that stands to benefit most from the World Trade Organization's improved, and more effective, rules for settling disputes among trading partners.

We are on the brink of realizing these benefits. This is not the International Trade Organization [ITO], established in the Habana Charter of March 1948, that the Congress turned its back on. The ITO was a more ambitious arrangement. It included, as the WTO does not, provisions on full employment and economic reconstruction, on technology transfer and access to capital, on private cartels and international commodity agreements.

The ITO died at the hands of the Congress, due in no small part to the intense opposition of the Committee on Finance of that day. The business community joined in that opposition, ironically because of concerns that the ITO Charter fell too far short of their ideals of free trade. In the end, only one committee of Congress, the House Committee on Foreign Affairs, even held hearings on the Habana Charter. There were no votes. The ITO Charter simply withered in the face of intractable opposition.

In contrast, the World Trade Organization of 1994 is a more modest arrangement than that envisioned by the Habana Charter. But its principal purpose is the same—to provide a sound institutional framework for the conduct of trade among nations. To provide a forum for resolving disputes that inevitably arise among people who trade together. In recognition that the prosperity of all depends upon the peaceful resolution of such conflicts and the continuing conduct of international trade. And in 1994, unlike in 1948, the Finance Committee and the business community join together in support of the World Trade Organization.

Let us not replicate our unfortunate experience with the International Trade Organization, over 40 years ago. Instead, let us emulate the bipartisan spirit that has developed over the past decade as we have ratified, with little or no dissent, four important conventions negotiated under the auspices of the International Labor Organization [ILO].

Mr. President, I look forward to the coming debate, and I urge the Senate, once the debate is over, to act in that bipartisan spirit and approve the Uruguay Round Agreements Act.

I see that my distinguished friend and chairman is on the floor. I see that he has teaching aides and other matters to bring before us. I look forward to them, and with great pleasure I yield the floor.

The PRESIDING OFFICER. The Senator from Oregon [Mr. PACKWOOD] is recognized.

Mr. PACKWOOD. Madam President, I thank the Chair.

Madam President, during the next 2 days, I expect to speak often on this subject and I am not going to try to cover the entire gambit of the arguments for or to rebut all the arguments against the GATT agreement right now.

I want to lay at rest, if I might, in my opening comments the particular issue of whether or not the United States can compete in the world, because the principal argument against the World Trade Organization really is that we cannot compete. We heard it in NAFTA. How can we compete against 50 cents an hour wages in Mexico? That is neither here nor there. If wages were the key, Bangladesh would be the industrial behemoth of the world, and we all would manufacture in Bangladesh and ship all over the world. There would be no industry in Japan, Britain, or the United States. It would all be in Bangladesh at 5, 10, or 15 cents an hour, or at whatever their wages are. That is not true. It has not happened and will not happen.

I think in retrospect, we may have made a terrible mistake in calling the successor to the GATT the World Trade Organization. GATT was a term no one understood, the General Agreement on Trade and Tariffs. The World Trade Organization sounds like something created by the Trilateral Commission to Subsume our Sovereignty. Indeed, it does not, and I am not going to address the issue of sovereignty in this opening comment. I want to address the issue of can America compete?

So let us take a look at what is called the balance of trade, because the worst of the statistics are cited as an example of how we cannot compete.

You have two major sectors in trade. One is called merchandise—cars, refrigerators, jet engines, VCR's, televisions, hard goods. It is called merchandise. The other is services—Visa, American Express, Master Card. They license the use of their cards around the world. The licensee pays to use the card and the money comes to the companies of the United States. That is dollars. That is dollars, just like if we sell a jet engine. That is services.

In merchandise in 1993—we do not have the complete statistics yet in 1994—we had a $116 billion deficit. In services in the same year, we had a $57 billion surplus. Net is a $59 billion deficit.

I want to emphasize something. It is the services sector that is growing the fastest. This is a sector that is intensely dependent on rapid communication, computers, highly paid workers, educated workers. It is an area in which we dominate the world. So I want to round off the $59 billion to $60 billion. We have a $60 billion deficit which will be closing as the services begin to dominate more and more.

But I want to comment on something on the merchandise deficit that we overlook. Again, there are the goods. As I said, we have a $116 billion deficit. $44 billion of that deficit is oil; oil that every time we hope we can find in the United States or in the Outer Continental Shelf or in Alaska, we have to fight tooth and nail to even look for, let alone take it out of the ground, because we run against environmental objections and others.

Is the oil there? We do not know if the oil is there. Do we think it is? Yes. But if we want to avoid oil—and I checked with the South African Embassy this morning to see if they have changed since the new Government came in and most of the trade restrictions have been lifted. South Africa makes a significant amount of its own gasoline from coal.

They have an abundant coal supply, and during the trade embargo when they could not get oil, they wanted to be self-dependent and they turned to their coal reserves and make almost all

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of the gasoline and oil that they use. So could we do the same thing? You bet. We have a 400-year supply of coal in this country. We have a 200-year supply of oil shale. We can make all the oil we want in this country from coal or extract it from oil shale. There is a problem in that it is infinitely more expensive than imported oil.

So if you are not worried about a cartel that can squeeze you—and twice they have squeezed America in 25 years. But cartels usually do not work over a long period of time. Producers cheat. If we wanted to eliminate $44 billion worth of trade deficit, we could do it. It would take an immense capital investment, and I am guessing that it would take 5 to 10 years to develop the plants. So we could eliminate $44 billion of the deficit and produce all of the oil and petroleum in this country at an expense greater than importing it, but it would eliminate $44 billion of deficit.

Second, cars. Oil is $44 billion of the deficit; cars are $43 billion. I have been in this body long enough to remember when cars were not a problem. In the fifties, and even into the almost early 1970's—1970, 1971—the only cars of any consequence that were imported in this country were big cars, such as Rolls Royces, or itsy-bitsy cars, like the Volkswagen Beetle. The Volkswagen Beetle had a very small, but loyal, segment of the market, but we always thought that people that drove Volkswagens were funny looking and they had beards and certainly real Americans would not want a car like that.

Then a funny thing happened in the 1970's, maybe coincidental. The Japanese, in 1971, 1972, 1973, were producing good little cars at the small end of the market. And they were producing them at the same time the first Arab oil boycott hit. I remember the debate we had in the Senate on whether or not we should adopt mileage standards for cars. I remember the argument against it from the auto companies, which was twofold. One, they could not possibly produce the cars in less than 5 or 7 years. It would take that long to retool. This is from an industry that went from cars to tanks in 6 months in World War II. They could not do it that soon. They said America did not want cars like that anyway.

Well, it turns out that America did want cars like that. It is amazing that America really liked cars that were well made, when given an option. In the 1970's, Japanese cars were better made and they got 20 or 25 miles to the gallon. They get much more than that now. We bought them in droves. The Japanese were very smart. They initially concentrated on the low end of the market, inexpensive cars, not the high-end imports that you see now, but low end. They captured a significant segment of the automobile market in an area in which American manufacturers were not making cars, good high-mileage cars. Having captured that portion of the market—Lord, anybody knows it—in terms of product loyalty—they began to move up the scale to more expensive cars. People that have driven an inexpensive Toyota liked it, and now they buy a Lexus, which is an expensive car.

To American manufacturer's credit, they are now starting to gain it back. It has taken 20 years to learn. We have learned now that it does not take 5 to 7 years to go into this development. We have now learned about our market, and we are succeeding in taking the market back. But those two items—cars, which we threw away, and oil, which we can eliminate if we wanted to—are the overwhelming part of our trade deficit.

So let us not get into the argument that America simply cannot compete. We are competing in cars, and we could compete in oil if we wanted, although it is expensive.

I want to take some examples from my State, and I am going to take a low-wage example and a high-wage example and a medium-cost example. First, I have a chart behind me. Sabroso is in Medford, OR. Medford is a fair-sized town in Oregon, but it is not on a major railway. It is a company of about 150 employees. Sabroso makes fruit purees and concentrates for use in juices and baby foods. They are the largest supplier of the basic ingredient to the three principal baby food manufacturers in the United States—Heinz, Gerber, and I cannot remember the third one—in Medford, OR.

In this plant, lots of employees are first-generation immigrants, and you find three or four different languages. The supervisors know the languages. You find that some of the supervisors are first-generation immigrants who speak two or three languages. Here is an example of a peach puree. This is the label on it. It is designed for sale in Arabic countries. Look at the next one. This is Spanish. Twenty-eight percent of their gross is from overseas sales out of Medford, OR. This is an industry that, in terms of its mass of employees, is at the lower end of the wage scale, although it is highly capital intensive in terms of its equipment. Can they compete? You bet they can, from a mid-sized town in Oregon all over this world. They were tremendous supporters of NAFTA, and you can understand why. If you are making baby food and you are looking at a market that is young and exploding, all of that, they could not wait. They were strong supporters of NAFTA. Do not tell them you cannot compete. Let me give a second example.

Another example is Intel, the largest manufacturer of computer chips in the United States. This is an 8-inch chip wafer made in Oregon. Intel is the largest private employer in Oregon. It was founded in 1969. They are expanding one of their present plants in Oregon—a $700 million expansion—and are putting in a new $1.2 billion plant not 20 miles away from it, to make things like this. Why is this not made in Bangladesh? I will tell you why. The $1.2 billion plant is a high-end technical plant. These are not minimum-wage jobs. Why are they doing it in Oregon? I think they can do it in other States, but I am honored that they chose Oregon. There is a good education system and a good work ethic and people that understand mathematics on the production level.

I went through the current Intel plant on my last trip to Oregon and you can look at the clean room. Twenty years ago, it was just a white coat. Now these people are smocked in devices that look like they are from Star Wars. They are catching their breath in a pipe that runs through an oxidizer on their back as they walk around so that nothing gets in or out of this room. All it takes is a speck of dust on the wafer and it is ruined. Do you have to ask any more than to say I understand why they are not making it in Bangladesh? There is not a nondusty place there 9 months of the year, and the other 3 months it is under water. Tremendous employment, done here.

Third, Denton plastics. Denton plastics is a plastic recycling company that is 11 years old. It only has a few score employees now. The plant has doubled its employment. It takes plastic trash—here a good example. They will take this—and I have been in their plant. It is an immense warehouse full of boxes of junk like this that they take, heat up, grind up and turn into little pellets like this.

They are different colored pellets, if necessary, black color or white color, and sell them all over the world, which companies use all over the world.

Here is the bag I was looking for which I want to use as an example. See the green on here, it is just a plastic sack. But in order to sell these, in order to make them into black or whatever color you want to make them into you have to have a uniform color. That is no problem. You kind of cut out the colored part and throw the rest in the hopper, grind it up, heat it up, and out comes the little pellets.

It does not work that way. What you do is you got something like this. There must be 15 colors on here. They have invented a process that lets them take this, run it through their process, and somehow it bleaches it and all the colors come out uniform.

Dennis Denton, the President of the company, sells in China. I have a yo-yo here that he sells in China. He has been to China and seen China try to duplicate it.

What? Are you trying to compete with China? What are you doing in China, with cheap labor, tackling

something like this; cutting out each color and putting them in different pots. All the yellow in this pot, all the green in that pot. No wonder they cannot beat him. He is paying wages that start at $6.50 or $7 an hour, and $8 or $9 an hour for high-production people, and higher than that. These are not high-wage jobs, but they are not minimum-wage jobs. He says he will always stay one step ahead of the Chinese one way or the other. He is selling overseas tremendously.

My last example is Freightliner. Freightliner makes big trucks. We have all seen them on the road. Thus, Freightliner is now the biggest manufacturer of big trucks in the United States. They own International Harvester, which they acquired a couple years ago. They have a plant in Oregon with 2,200 employees, a plant in North Carolina with about 2,300 employees—Mount Holly.

Both of those plants are unionized. North Carolina is the automobile workers. Oregon is the International Association of Machinists. The wages in the Portland plant, counting fringe benefits, are at the high end of production scale, about $25 an hour, $3 or $4 less for starting wage. But by any measure this is a high-wage employer.

How can they compete, you ask? I will give you an example. At the moment Freightliner ships these trucks to Mexico in kit form, and they are assembled in Mexico. Part of it is the old domestic content law; part of it is the tariff, 20 percent.

I talked to the president of the company yesterday. They are now shipping 10 kits a day out of their North Carolina plant to Mexico. He says as the tariffs come down, the line at which it is cheaper to do it here than Mexico crosses in about 1998, and from that point onward they are going to make all the trucks in final form here, send them down to Mexico for sale. They cannot wait for the opportunity to be able to do this all over the world. This is a company paying about the top of the scale in wages and competing anyplace in the Western Hemisphere.

So can we do it? You bet we can. How on Earth, you say, can we stay ahead? And what Mr. Denton said at Denton Plastics is "We can." He said "I will invent something new when the Chinese have a bleaching machine like I have. I will be a step ahead."

This morning I was listening to WGMS. The announcer was saying, "You know, today is the birthday of Winston Churchill and Mark Twain." And, he said, who was it that said, "East is East and West is West and never the twain shall meet," leading you to guess Mark Twain. Of course, it was Rudyard Kipling.

I thought to myself Kipling said it better than anyone else when he said it in a poem he called "The Mary Gloster"—the name of a ship. The poem basically centers on an old man now, who was a coal scuttle on a ship as a boy of 14 and 15; worked his way up. By the time he was 16 and 17, he was a mate; by the time he was 20, captain; and he finally had his own ship at 24. In his older age he was the shipping magnet of the world. The poem is in the form of interview, of how did you get there. Here are the lines.

I didn't begin with askings,
I took my job and I stuck;
And I took the chances they wouldn't
an' now they're calling it luck.

And they ask me how I did it
and I gave them the scripture text,
"You keep your light so shining
a little in front 'o the next!"
They copied all they could follow
but they couldn't copy my mind,
And I left 'em sweating and stealing
a year and a half behind.

(From the "Mary Gloster"—Rudyard Kipling)

We can compete. I thank the Chair.

The PRESIDING OFFICER. The Senator from New York.

Mr. MOYNIHAN. Madam President, might I yield myself 3 minutes just to comment on the extraordinarily able presentation by my friend and colleague, the Senator from Oregon, and to make two points, if I may, with respect to issues that have been raised in this matter.

In the course of the crisis in the 1970's when American automobiles might not have been as high or the right size, and oil prices were going up, we enacted in 1978 the so-called gas-guzzler tax, the corporate average fuel economy [CAFE] registration. The European union took us to arbitration, to the GATT panel, on that issue, saying it was designed to keep European imports out; it was nominally environmental, in fact, protectionist.

On September 30, Mr. President, this year, a GATT panel said no, it was not; it was a legitimate environmental concern. We prevailed. And we will. Where the purpose is legitimate it will be so found. That has been our experience.

Finally, sir, the most elemental of all products in the industrial age is steel. American steel fell behind. The Japanese, who were getting their technology from Austria, the coal from West Virginia, and iron ore from Australia, were underselling us. No more. We are the low-cost producer in the world.

This morning in the New York Times there is a story, "Steelmakers' Quest for a Better Way," if I can just read the opening paragraph and one other.

Even as it enjoys one of its biggest booms in decades, the American steel industry is investing big money in technologies to carry it through the inevitable next downturn.

And then this, sir.

The price of steel today in real terms is the same as it was in 1985. . . .

That is what productivity is all about. That is what your plastics man in Denton, did the Senator say?

Mr. PACKWOOD. Denton Plastics.

Mr. MOYNIHAN. He is just going to keep productivity ahead and prices, relatively speaking, down.

Our automobiles are back. Steel is back. Plastics are ahead. Intel is ahead of everything you ever heard of. We are the world's lowest cost producers. We are asking the Senate to let us trade worldwide.

That is all, Madam President. I believe the facts are overwhelming.

Mr. PACKWOOD. Mr. President, if the chairman will yield, perhaps the greatest example of all is agriculture.

At the turn of the century we used to be able to feed seven people with one farmer. By the turn of the next century we will feed at least 100 people with one farmer.

You say how could a farmer possibly pay several hundred thousand dollars for a combine, thousands of dollars for a tractor beat someone with an ox and a plow. And we beat them in productivity. Agriculture is one of our largest successful balance of trade merchandise exports and we will get better and better and better as the markets and barriers are more open to us.

I thank the Chair.

The PRESIDING OFFICER. Who yields time?

The Senator from South Carolina is recognized.

Mr. HOLLINGS. Madam President, let me congratulate the distinguished Presiding Officer.

The PRESIDING OFFICER. Thank you very much.

Mr. HOLLINGS. I am glad to see her back.

What happens, and let me put it to bed immediately, agriculture is the most protected, subsidized of all of America's produce. We all know it. We vote for the price support programs. We put in the Export-Import Bank to finance it. We put in export promotion programs, and everything else. I believe in those things, and they have been successful.

Right to the point, on Intel and steel, steel, as the Senator reads from the New York Times, we use, coming out of the distinguished Finance chairman's committee, Super 301 and being able to threaten retaliation. We did not retaliate, but we threatened retaliation to open up the market. Then we got in so-called agreements, voluntary restraint agreements, on steel, on automobiles, yes, on semiconductors. Intel benefits from the managed trade that they say they are all against.

But under GATT, Madam President, I can tell you the European commission and the booklet on Japan in their particular findings already have found our voluntary restraint agreements are GATT illegal, our Super 301 is GATT illegal. And that, in and of itself, is enough to kill this particular agreement—should kill it.

What disturbs this particular Senator is the attitude that somehow

when they bring in trucks and those kinds of things, and technology, they assume the lack of intellect or experience on the other side. We know about exports. I can list down from Bosch and all the fuel injectors for the Toyotas and Mercedes. I can list our General Electric friends. I brought them in 35 years ago to make bulbs, light bulbs. Then they made cellular radios. And now they make what? Magnetic resonance images, health care, the most sophisticated instrumentality there is. And do you know what? We took the market. Florence, SC, took the market from Tokyo. We ship over half of what we produce in Florence, SC, to Tokyo. We know about exports and we know about automobiles.

The Japanese have been dumping, dumping automobiles at less than cost.

I had, as chairman of the Commerce Committee, lined up a couple years ago on the 1989 figure of a loss of $3.2 billion that the Japanese lost in selling cars in the United States of America, I had Ford and Chrysler ready to testify to start into dumping. General Motors chickened out. That is why we do not do it. The business leadership said, rather than spending for lawyers on dumping cases, we are just going to move on out. That is our problem.

If you do not believe it continues about liking cars or not liking cars, here is Fortune Magazine, December 12. Read it. I cannot get the exact page on this one, but you can see.

Japan Car Crash in North America.

Bruised by the strong yen and the recession at home, the Japanese have made a valiant effort to boost their car sales in the United States this year. Valiant but expensive. While sales are up 5.8 percent, Japanese auto makers will lose $20.5 billion, up from $1.5 billion in 1993.

They have been losing it. Theirs is market share. And that brings me right to the point. There are two different trading systems in this global competition. Do not say, "We are competent. We can compete. We can compete."

We know that the American industrial worker is the most productive, our research is the best, our technology is the best. What is inadequate, downright dumb, is us, the Government, right here. That is what is not competing. Do not sell me off about we are against the American workers and all that and give me the patriotism.

What happens is, there are two different systems entirely. We follow Adam Smith, David Ricardo, competitive advantage, free markets, open markets, open competition. The Japanese and all the countries in the Pacific rim follow the federalist Alexander Hamilton of closed markets. They measure the wealth of a country not by what it can buy, but by what it can produce. And their decisions are made as to whether or not it weakens the economy or strengthens the economy.

And all of these Senators run around moaning and groaning about fair play and quit cheating and we want a fair trade and all those kinds of things.

There is no moral question of fairness or unfairness. It is a calculated, definitely successful method of trade.

And not only are all the Pacific Rim countries following it, read the most recent issue of Business Week and you will find, Madam President, that Business Week says Eastern Europeans coming in from communism into capitalism are following not the American system but the Pacific rim system of design for market share. That is what it is—the strength of a country.

And we are running around talking about the price of consumers. When the poor Senator says we have got 200 jobs for trucks in Oregon, we have got 300 jobs for trucks in North Carolina, he does not understand what he says, because he says we are the largest manufacture of that particular equipment. Well, it is the largest, 500 jobs. We are talking about jobs. Transportation equipment in the United States in the last 5 years has lost 278,000 jobs. And that is why the Senator can stand on the floor and say the largest we have got has only got 300 jobs in North Carolina and 200 jobs in Oregon.

Going to those particular two systems, what happens over the years. We failed to compete as a government intentionally. We sacrificed, if you please, our economy to keep the alliance together under the cold war.

And let us go immediately now to the Tokyo round and where we are at this particular time, because we heard all of these arguments under Ambassador Strauss in the previous administration in 1979, under President Carter.

What is particularly annoying is that the leadership in this town, Republican and Democrat, fail to recognize reality and the real competition that they are in. That is the frustration of the American voter that you faced here just a couple of weeks ago and it continues. It is not over now.

Oh, they can run around and take away from committees and they can run around and cut this and say we all are going to be subject to the same rules, but if we do not get this Government competitive on jobs, on creating an industrial backbone that we are fast draining off, we all should go down the tube. We do not have to pass term limits. They will limit you. You go in to bat in 2 years, 4 years from now, we all will see the result. They promised me the jobs.

The actual figure, undisputed—and we had eight separate hearings in the Committee of Commerce, very few people were around, but they were covered by C–SPAN—we have lost 3.2 million jobs under what we got. Now here, instead of creating jobs, they talk about what is going to happen in the future.

We heard that in 1979, that we were going to all burst out with all of these jobs. We have lost jobs. The average worker who has really got a job—a lot of people are back into part-time jobs and everything else of that kind, those are the only ones created—are making 20 percent less.

And what happens? This is a trade debate, the General Agreement on Tariffs and Trade. And what happens on trade? An average of a $100 billion deficit. Not exports. Yes, exports might go up X percent, Y percent, G percent, 50 percent, 300 percent, but never, never more than imports. Imports are coming in faster.

Yes, exports create jobs, but imports lose the jobs, and we are losing them at $100 billion a year. And, according to their own measure, every billion dollars represents 20,000 jobs. So we are losing 2 million jobs a year. This year, 1994, that is a $150 to $160 billion trade deficit. That is 3 million jobs lost. And they continue to think they are leading. "This is a wonderful moment in history. The allies will wonder whether we continue to lead." Continue to lead. That is nonsense.

We are losing. The poor President goes out to the Far East a couple of weeks ago with a $150 billion hole in his pocket and a tin cup, begging the Japanese to finance the debt. Where do you think you get the debt? Right here. This is not competing, this particular Government here, that we are all part of. We are losing.

The Japanese leaders—I have been in conferences with them. They are aghast, over the years, at our lack of competing here and enforcing our own dumping and trading laws. So after all those deficits in the balance of trade, by 1985 we had, yes—former Secretary of State Baker, he was Secretary of Treasury, and ran the White House—he devalued the dollar in 1985 with the Plaza Agreement and put the United States of America up for a half-price sale and the Japanese came running and bought up the Metro Goldwyn Mayer, all the studios out there in your back yard—the Plaza, Algonquin Hotel—bought up everything. They bought up the farms. We did not have to worry about shipping beef to the Japanese. They just bought up the farms and shipped back their own beef at half price. Come on.

What has been going on is that we are in a disastrous decline—a disastrous decline. The headline just before the election said "Rising Tide Fails to Lift." There is no rising tide. We are losing jobs. We have 40 million hungry in America. I wrote a book on hunger. It used to be 12 million. Now there are 40 million out there. How many homeless? Millions are homeless. How many on, heavens above, half the take-home pay?

So they are all for the family. What breaks up the family? When you are only getting half, 20 percent, of what you were making, the wife has to go out and you get the latchkey children.

So they think it is a moral thing, that we have to get the wives and the mothers to look after children more. It is economic decline. They look after the children trying to earn bread to put it on the table. Who is causing latchkey children? We are.

In crime? They are all against crime—three strikes and you are out. Build more prisons. There are 64,000 textile jobs in the Bowery in New York, sewing jobs; there are 60,000 out there in Los Angeles, in Watts. They get $6.30 an hour and get all the requirements. We burden our system, business: Clean air, clean water, minimum wage, plant closing notice, parental leave, Social Security, Medicare/Medicaid, safe working place, safe machinery—on and on, up and up. Those jobs move to Mexico and now to the Pacific rim, all gone. And you have a little candidate running all around here with his blow-dry, hollering, "Enterprise zone, enterprise zone." We are taking, today, the enterprise out of the zone. That is what causes the crime, when we lose the jobs that we have there in the inner city: Newark, New York, Los Angeles, Chicago, Cleveland. Go around the country and find out what is happening. That is what the American people say: Get off your duffs and start competing here. Because this Tokyo round has been a disaster.

Madam President, what has been the change? One, they talk about tariffs. Back in 1947, tariffs were nothing—absolutely nothing, relatively speaking. The average tariff in Japan is 2 percent. The average tariff here is 4 percent. Cut it 50 percent? That is not the case. It is nontariff barriers. That is why Ambassador Kantor went working all year long. He had this GATT agreement back in December. He has been working all year long to get an agreement with the Japanese, but he comes around and says, "We will all work under the same rules." We are not going to all work under the same rules. We are not going to open up any markets.

If they thought so, they put him on notice out there in Malaysia and Indonesia. The trade executive in Indonesia said we are not going along with it.

Kuala Lumpur, Malaysia, today expressed its objection to any efforts for enforcing trade liberalization. Minister of International Trade and Industry, Ricardo Seed, said it is mooting market liberalization. No OPEC member should push another member to open its markets.

So what did they do? They came away and said open them by the year 2020, 25 years from now, and they hail that as, "We have progress. We are opening up markets. We are creating jobs," when we are going down the tubes. We are killing every economic or job opportunity that you could possibly think of. That is one particular change.

The other particular change is America's security is like on a three-legged stool. We have the one leg, the values of the country—strong. Feeding the hungry in Somalia, building democracy in Haiti.

The second leg, the military leg or power—unquestioned.

The third leg is our economic strength. And if one is fractured or tips, the security tips, and that is the condition we are in. We are on the way, as England. Years back, they told England, "Don't worry; instead of a nation of brawn, you will be a nation of brains. Instead of producing products, you will produce services and be a service economy. Instead of creating wealth, you will handle it and be a financial center." And England has gone to hell in a hand basket, economically. We can prove that. It came out in the hearings. We are on the same road, and I am trying to get us off that road, and not listen to these shibboleths about creating jobs and technology. We are losing all of the technology jobs.

What we have now, with the fall of the wall, Madam President, the big change is that we have an opportunity to quit sacrificing the economy and refurbish that third leg of the stool, our economic strength. I hope we can go after this in a deliberate way and understand that it is not the rule of the jungle or anything else.

We have a virtual veto under the present GATT. We lose our veto under this GATT. I have 50 witnesses and they cannot point to me where I have a veto and they have to go to it.

I see now I am pretty well limited in my time. Let me yield to the distinguished Senator from Ohio and reserve the remainder of my time.

The PRESIDING OFFICER. The Senator from Ohio is recognized.

Mr. METZENBAUM. Madam President, I rise in opposition to the passage of GATT, The General Agreement on Tariffs and Trade. Before I discuss my concerns with the agreement, let me frankly say I wish I could support the President on this matter, especially in light of recent events. I strongly believe the President has been misunderstood and unfairly maligned. He has done much to improve the direction of this country and deserves far more praise than he has received. But I am frank to say that I have many deep concerns about this agreement and I just cannot support it.

Today, I want to focus on the impact of this agreement on children. Up to now, there has been virtually no discussion about this critical issue. I recently held a hearing of the Labor Subcommittee on International Child Labor Abuses and, frankly, I was deeply shocked by what I heard. Around the world today, as many as 200 million children are subjected—200 million children are subjected—to abusive labor practices in sweat shops, in mines, in factories, and in the fields. The more advanced and mobile our productive technology gets, the more easily it can be run by children in impoverished countries.

Walk into a clothing store like the Gap, or the Limited. You will have a very hard time finding any garments made in the United States. I did that the other day, just to explore for myself. It is very difficult to find anything made in the United States. But you do find clothing made in low-wage countries such as Thailand, China, the Philippines, Brazil, Honduras, Korea, and so many other countries. In many of these countries, a substantial percentage of the apparel industry is comprised of children, and working conditions are horrendous. Child labor is also widely used in many other countries in the production of toys, in carpets, in jewelry, and in numerous other exports.

I ask unanimous consent, Madam President, that a list of these countries be printed in the RECORD in full.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

COUNTRIES WITH DOCUMENTED CHILD LABOR VIOLATIONS

Bangladesh—Childen make up an estimated 40 percent of garment industry workers there, despite national laws that prohibit employment of children under the age of 14.

Brazil—1,300 children under the age of 14 work illegally in the footwear industry, which exports $1.4 billion worth of merchandise to the U.S.

China—Children between the ages of 10 and 16 spend 14 hours a day working for foreign-owned companies

Colombia—Children as young as 11 work in the fresh cut flower industry where they are exposed to toxic substances present during and after the spraying of pesticides.

Cote D'Ivoire—Children as young as three years old work in the gold mining industry

Egypt—Children in the export-oriented leather industry average 11.7 years of age and work an average of 12.8 hours a day.

India—India has the largest number of child workers in the world: an estimated 100 million, including some as young as five in the silk and fireworks industries.

Indonesia—Children make up a portion of the export industry workforce, for which they work an average of 7–13 hours a day, 7 days a week. They earn an average of $4 a week for their work.

Lesotho—Children under the age of 14 work in at least ten different foreign owned factories that assemble garments exported to the United States.

Mexico—Many children under the age of 14 are found working in the maquiladoras, which are affiliates of American-owned companies that assemble goods for export.

Morocco—Children as young as eleven work in leather workshops, where they are exposed to toxic chemicals and work with hazardous machinery.

Nepal—Five year olds working 15 hours a day in Nepal's carpet export industry earn approximately $25 for a carpet that will retail in the U.S. for $4,000.

Pakistan—Millions of children suffer under a system of "bonded labor", a situation in which children pay off their parents' debts through forced labor. It is estimated that 50,000 children in the bonded labor sector will

die before the age of 12 because of disease and malnutrition.

The Philippines—Children work long hours in unhealthy and crowded conditions and are paid less than one-third of the minimum wage.

Portugal—Children are paid 10 percent of an adult's wages working in the garment industry that exports $60 million in merchandise annually to the U.S.

Tanzania—Children make up 30 percent of the workforce in the sisal (rope and yarn) industry, which exports $2 million in merchandise to the U.S.

Thailand—Children working in the leather industry, which exports products to the U.S., are given amphetamines to keep up their strength during their 15 hour days.

Source: *By the Sweat and Toil of Children: The Use of Child Labor in American Imports.* U.S. Department of Labor, 1994.

Mr. METZENBAUM. Global trade may bring great riches to multinational corporations and even to some developed nations, but for millions of children around the world it is an unmitigated disaster, bringing oppressive working conditions, rampant illiteracy, unbroken cycles of poverty, and an ever-widening gap between rich and poor.

Incredibly, the GATT Treaty not only ignores this problem, it will encourage even more employers to exploit the children of the Third World in the manufacture of goods for the U.S. and other developed markets.

I am a cosponsor of Senator HARKIN's bill to ban the importation of goods made with child labor. But in a recent letter, U.S. Trade Representative Mickey Kantor informed me that GATT would actually make that bill illegal under the new World Trade Organization's rules. Now, Mickey Kantor is a longtime friend, one who has done superb work as the U.S. Trade Representative. But according to Mickey Kantor, under the GATT Treaty, "the United States could not block the importation of a product made by child labor consistent with our obligations under the GATT."

How can we approve a treaty that not only ignores the problem of international child labor, but actually prevents us from doing anything about it in the future?

I suspect that the American people, as well as most of my colleagues, have no idea of the scope or depth of this problem. So let me set forth some basic facts.

We are talking about children—kids forced into slavery, subjected to torture and physical abuse, all in the name of free trade, to produce goods for U.S. markets. Instead of meeting this problem head on, GATT will only make it worse.

Today, in many developing nations, millions of children are paid pennies an hour for their labor.

Many of these children will die of disease, exhaustion, physical abuse, or starvation.

Those who are lucky enough to survive the horrors of forced child labor will never lead a normal adult life.

By working instead of going to school, child laborers are doomed to perpetuate the cycle of poverty.

It is outrageous that these conditions exist, and we are talking about passing the GATT Treaty and not doing a damned thing about it. Even worse, they are doing nothing to address the problem. GATT will not help—it will simply hurt, by limiting our ability to address this problem in the future.

Mickey Kantor further tells me that "there will undoubtedly be cases where we will advise Congress that we oppose legislation because it is inconsistent with our international obligations."

I ask unanimous consent that the text of this letter be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. TRADE REPRESENTATIVE,
Washington, DC, November 22, 1994.

Hon. HOWARD METZENBAUM,
Chairman, Subcommittee on Labor, U.S. Senate, Washington, DC.

DEAR CHAIRMAN METZENBAUM: I am writing to respond to the concerns you have expressed about trade and child labor, and specifically to address the questions you have raised about the impact of the Uruguay Round agreements on our ability to ban imports made by child labor. I also want to take this opportunity to explain the relationship between these agreements and our laws on health, safety, and environmental protection.

The Uruguay Round agreements, which will be administered by the new World Trade Organization (WTO), reflect an unprecedented degree of agreement by 128 nations about the rules under which international trade should be conducted. The Administration believes that they will benefit U.S. companies, farmers, workers and consumers for years to come. We did not, however, reach agreement on every issue of importance to us, and the agreements do not establish any international rules governing the importation of products made by child labor.

There has been no decision under the GATT addressing whether a ban on the import of products made with child labor would be consistent with GATT rules. Under the general analysis that has developed under the GATT, the question whether a product was made using child labor is a question relating to the processes or production methods (PPMs) associated with that product. There is currently a great deal of discussion in the GATT about the ability of countries to distinguish between products based on PPMs that do not have an impact on the physical characteristics of the product. For example, this is one of the areas the United States will be pursuing in the Committee on Trade and Environment, since PPMs may have important implications for the environmental impact associated with a product.

To date, several panel reports under the GATT have found in general that, under the national treatment rules of Article III, a nation cannot block importation of a product of GATT contracting parties on the basis of an objection to the PPMs involving that product that do not have an impact on the physical characteristics of the product. Consequently, under this line of reasoning the United States could not block the importation of a product made by child labor consistent with our obligations under the GATT, unless it fell within an exception to the GATT rules. (For example, Article XX of the GATT provides general exceptions to the GATT rules, including exceptions for measures "necessary to protect human, animal, or plant life or health" and for measures "relating to the products of prison labour.")

The Uruguay Round agreements changed neither Article III nor Article XX of the current GATT, both of which are carried over into the new GATT 1994. Accordingly, it should be clearly stated that the rules for the treatment of products made from child labor under the WTO are not different in this sense from the rules under the existing GATT.

Furthermore, while our ability to block the adoption of panel reports will be restricted under the new dispute settlement procedures, this will not in any way diminish our right to enforce U.S. legislation. This means that if Congress enacted legislation banning the import of products made by child labor, and a dispute settlement panel were to find that legislation to be inconsistent with GATT or WTO rules, we would still have the sovereign right to retain that legislation.

At the same time, the Administration takes U.S. international obligations seriously. Thus, there will undoubtedly be cases where we will advise Congress that we oppose legislation because it is inconsistent with our international obligations. But there will certainly be instances where Congress, in pursuit of a goal of overriding importance, will legislate irrespective of our international obligations. Under the WTO, Congress will remain free to do so.

We believe that the real issue is how to begin dealing with the scourge of child labor generally. Toward that end the Clinton Administration has taken a number of steps.

First, we have launched a multilateral effort to incorporate internationally recognized labor standards within the rules of the global trading system. We are leading the effort to build a consensus on enforcing standards that have already been agreed to by a large number of countries. A minimum age for the employment of children is one such standard.

Recognizing the need for and desirability of such policies, GATT Contracting Parties have agreed to discuss intenrationally recognized labor standards in the Preparatory Committee leading to the World Trade Organization. Despite bipartisan support from three Presidents and the Congress, this is the first time that we have achieved a breakthrough of this kind in the GATT framework. In addition, the Administration is contributing resources and expertise to the International Labor Organization's program to eliminate child labor around the world, thanks in large part to Congressional leadership.

Second, our law on the Generalized System of Preferences (GSP) requires that beneficiary countries must have taken or be taking steps to afford internationally recognized worker rights, including a minimum age for the employment of children. This is an overarching issue that affects a country's entire eligibility for GSP. Pursuant to this authority, the Administration formally reviewed worker rights practices in more than 30 countries; child labor practices were a particular issue in our GSP reviews of Bangladesh, Pakistan and Thailand. In seeking to renew GSP next year, we intend to consult closely with the Congress on the application of this authority.

Third, at Congressional urging, the Labor Department recently completed the first-ever review of international child labor practices. The report provides an overview of the causes of child labor throughout the world and documents child labor practices in 19 countries. It focuses specifically on identifying any foreign industry and their host countries that utilize child labor in the export of manufactured products from industry or mining to the United States. The Department will continue its investigation in the coming year.

Let me now discuss the relationship between the Uruguay Round Agreements and U.S. food safety and environmental laws. A more detailed discussion of these issues is contained in the Statement of Administrative Action (SAA) and in the "Report on Environmental Issues" that were submitted to the Congress along with the Uruguay Round Agreements.

1. FOOD SAFETY RULES

Our negotiators had strong environmental and food safety laws fully in mind in concluding the Uruguay Round agreements with our trading partners. As a result, the agreements recognize the right of each government to protect human, animal, and plant life and health, the environment, and consumers and to set the level of protection for health, the environment, and consumers—as well as the level of safety—that the government considers appropriate.

Under the WTO, most food safety laws will be covered by the "Agreement on the Application of Sanitary and Phytosanitary Measures" (S&P Agreement). The Agreement will permit us to continue to reject food imports that are not safe. Moreover, it will not require the Federal Government or States to adopt lower food safety standards.

The S&P Agreement calls for food safety rules to be based on "scientific principles." That is important because many countries reject our agricultural exports on non-scientific grounds.

As a general matter, the FDA and EPA (which participated directly in the negotiations of the S&P Agreement), as well as the States, base their food safety regulations on science. Thus, meeting the basic requirement of the S&P Agreement should pose no problem for U.S. food safety rules.

It is worth noting that the rule in the Agreement requiring a scientific basis applies to S&P measures. It does not apply to the level of food safety that those measures are designed to achieve. Each country and—in the case of the United States each State—is free to establish the level of protection it deems appropriate. That means, for example, that the "zero tolerance" level for carcinogens mandated by the Federal "Delaney clauses" are entirely consistent with the Uruguay Round agreements. Furthermore, a government may establish its levels of protection by any means available under its law, including by referendum.

While the S&P Agreement contains a general obligation to use international standards, it produces the ability of governments to use more stringent standards if they have a "scientific justification." The S&P Agreement makes explicit that there is a scientific justification if the government determines that the relevant international standard does not provide the level of food safety that the government determines to be appropriate. Far from undermining U.S. laws, this language serves to make clear that no "downward harmonization" is required for those laws.

Under the S&P Agreement, food safety rules imposed by the States will be subject to the same rules as those for Federal restrictions. But the Agreement does not require that States use the same food safety standards as the Federal Government.

2. ENVIRONMENTAL AND HEALTH RULES

Most environmental and health-based product standards for industrial and consumer goods will be covered by the Agreement on Technical Barriers to Trade (TBT Agreement). The new TBT Agreement carries forward, with some clarifying and strengthening modifications, the provisions of the existing GATT TBT Code, which entered into force for the United States in 1980.

The TBT Agreement recognizes that countries may set standards for products in order to protect human life, health, or safety or the environment. U.S. regulations prescribing safety standards for infant clothing, or banning the presence of PCBs in consumer products, are the types of product-oriented measures covered by the TBT agreement. The Agreement makes clear that the level of protection the Federal Government or a State seeks to achieve through standards of this kind is not subject to challenge.

In general, our State and Federal clean air and clean water laws and regulations are directed at controlling pollution generated in industrial operations. Not only do these laws generally not raise trade-related questions, they are generally not even covered by the new TBT Agreement since they do not set product standards. Where those laws do set product standards, as for automobile emission controls, they will be treated like the other product standards described above. Both the S&P and TBT provisions of the Uruguay Round agreements will allow each State to maintain stricter safety standards than the Federal Government in order to achieve the level of protection that the State considers appropriate.

On the question of environmental standards, let me point out that the recent GATT panel report on the European Community's challenge to three U.S. automobile laws lays to rest fears that WTO panels will interpret the GATT in a way that challenges our ability to safeguard our environment. The panel report on our Corporate Average Fuel Economy (CAFE) rules, gas guzzler tax and luxury tax explicitly upheld the sovereign power of governments to regulate their markets and their environments. The panel report confirms the broad discretion of governments to distinguish among products in order to achieve legitimate domestic policy objectives, such as progressive taxation, fuel conservation, clean air and water, and responsible energy use.

You have raised important questions concerning the Uruguay Round agreements. I hope that you find these comments informative and reassuring. Please let me know if you need more information.

Sincerely,

MICHAEL KANTOR.

Mr. METZENBAUM. Mickey Kantor goes on to say Congress "will remain free" to pass legislation "irrespective of our international obligations." What does that mean? Would such a law be valid? Would the President be obligated to veto it, or would it be invalidated by the WTO?

I do not know. I do not know the answer. But my guess is and it is quite clear that we are not in a position to pass restrictive labor with respect to the importation of products made with child labor.

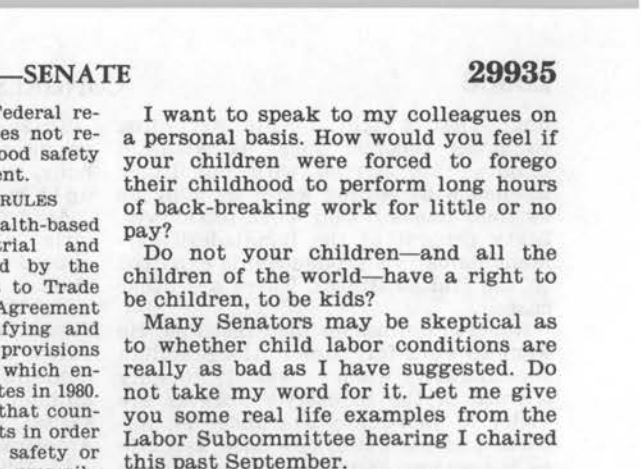
I want to speak to my colleagues on a personal basis. How would you feel if your children were forced to forego their childhood to perform long hours of back-breaking work for little or no pay?

Do not your children—and all the children of the world—have a right to be children, to be kids?

Many Senators may be skeptical as to whether child labor conditions are really as bad as I have suggested. Do not take my word for it. Let me give you some real life examples from the Labor Subcommittee hearing I chaired this past September.

Kailash Satyarthi of India has rescued thousands of children from forced labor. Today, India has the most child laborers in the world, 100 million of them. In the carpet industry, children work on looms in damp, dark pits for less than a dollar a day. Kailash told us that many children are lured by promises of learning a trade, only to find themselves enslaved hundreds of miles from home. Some are sold by their parents for as little as $50; still others are "bonded" laborers who work to pay off a family debt. The backbreaking work causes spine deformities, skin and respiratory diseases. Children who make mistakes in their work are beaten and tortured. When children cut their fingers during weaving, some employers scrape sulfur into the child's wounds, and set the wounds on fire to prevent the child from bleeding on the carpet fibers. Some employers have even branded their child workers to indicate ownership.

I am not making this up—it is true. It is outrageous. Just look at these pictures.



This girl, too small even to spin the spindle, spent 14 hours a day spinning silk thread in Bangladesh. This child does not go to school, but instead works 14 hours a day in a silk thread mill in Magati, India. These bonded carpet workers are forced to work because of debts owed by their parents in Mirzapur District in India.

What are we doing? How can we be indifferent? Does not the milk of human kindness run somewhere through our bodies? Instead of doing something about it, we are slamming the door and saying, "We can't do anything about it in the future."

It is a travesty for us to pass GATT and not do anything about child labor. Have we no heart? As parents and grandparents, can't we realize that we have an obligation to exclude the products of child labor from our markets? GATT won't accomplish this—it will actually prevent us from taking such a step.

Nazma Akther, a young Bangladeshi woman, also testified before our subcommittee. She went to work in a garment factory in Dhaka, Bangladesh, at the age of 11. Nazma worked an average of 70 hours a week, for about 3 cents an

hour. That is right, 3 cents. According to press reports, some Bangladeshi children are burned with hot irons, scalded with boiling water or hung up by their hands if they work too slowly. Sixty percent of the Bangladesh garment industry's production is exported to the United States. There are other cases.

Roberto Juimaraes also testified. He went to work full-time in the Brazilian shoe industry when he was 11. Roughly a third of the industry's workers are under 18, and many are under 14. Roberto and his coworkers earn as little as 35 cents an hour, and are exposed to toxic chemicals which cause ulcers, vision impairment, and nervous disorders. Most of the shoes from Brazil are exported, where? Of course, to the United States.

The media and international human rights organizations have reported countless other examples. They include children in Peru who are taken deep into the jungle to pan for gold. Many die of malaria or other diseases; many others are killed by their employers to avoid payment of wages. True. Unbelievable, but true. They include children as young as 3 in mines, in the African Nation of Ivory Coast. They include children in Thailand's leather industry who are fed amphetamines so they can work long hours, sometimes even 2 or 3 days, without sleep.

These are appalling, tragic stories. But make no mistake about it, GATT completely ignores the problem of child labor, and will only make matters worse.

In good conscience, we should not lower these trade barriers unless we first address these flagrant abuses of children's rights.

But as I have already stated, we will effectively be precluded from addressing this problem if we adopt GATT.

Do we not, as a civilized nation, believe that children should have a right to be children? That they should be free from exploitation?

If we will not stand up for our children, what will we stand up for?

Tragically, rather than making aggressive efforts to end child labor around the world, U.S. policymakers have historically been indifferent to the problem.

Every year, American consumers unknowingly purchase billions of dollars' worth of goods manufactured by children. Let me show you an example. This is a Liz Claiborne sweater, which my staff purchased at a Hecht's department store here in Washington for $58. On the tag, Liz Claiborne tells you this was "made in Honduras," but there is much more to the story.

At the subcommittee hearing, I heard testimony from one of the young Honduran girls that made this sweater and thousands more like them. Lesly Solorzano is a beautiful, intelligent, and poised young girl, but she told a tragic story.

These sweaters are made by girls as young as 13, for a paltry 38 cents an hour, with no benefits. The girls work up to 80 hours a week.

According to Lesly's testimony, the girls are sexually and physically abused on a regular basis by their superiors.

But the label just says "Made in Honduras." But if it said, "Made in Honduras by young girls working long hours in terrible conditions for pennies an hour, and subjected to physical and sexual abuse," I doubt that many Americans would buy this sweater.

In fact, according to the National Consumers League, 74 percent of its members would not buy a product if they knew it was manufactured by children.

Certainly, the multinational corporations that are involved in these production methods share some of the blame.

Liz Claiborne has taken significant steps to remedy the problem we uncovered, and the company is to be applauded for its actions. But there are thousands of other multinational firms that have allowed these practices to continue.

Has the Gap, Hecht's or any other department store raised a question as to how these products are being made and what kind of kids are being exploited to make them? Those stores can and should move forward to protect the children. But we have an obligation as legislators to do more. Instead what we are doing is slamming the door down and saying that we in Congress cannot do anything in the future about this.

This is our chance to do something about the problem. We should make sure that American consumers can make informed decisions about the products that they buy. But instead of addressing the problem we are here debating how to bring even more products manufactured by children, by kids, into the United States. Incredibly, that is just what the GATT treaty would accomplish.

So as this chart shows, 175 nations have recognized the right of children to be protected from economic exploitation—175 nations have signed the U.N. convention on the rights of the child but the United States is only one of a handful of nations that has not signed this convention. What are we waiting for? Mozambique has signed it, Morocco has signed it, Ghana has signed it, and Belgium has signed it. But not the United States. Instead, we are here talking about a GATT treaty which will make it even more difficult to protect the rights of children.

It is equally unacceptable that 46 nations have signed the ILO Convention which establishes a minimum employment age, but the United States has not. Why not? Our silence has been deafening. Our inaction is embarrassing.

As a world leader, the United States should attack the problem of child labor aggressively, with a combination of sticks—such as trade sanctions and import bans—and carrots, such as technical assistance and aid for education.

Most importantly, we must link free trade privileges to child labor protections.

But the GATT treaty not only fails to do so, it will actually prevent us from addressing this problem in the future. It sends an unmistakable message to U.S. and foreign manufacturers: Go right ahead and exploit the world's children, and then bring the fruits of their labor to our markets, and we will meet you with open arms.

GATT may be a boon for many of the world's multinational corporations, but for the world's children, GATT spells disaster.

Madam President, I will have more to say about GATT during tomorrow's debate. I have many additional concerns about this agreement.

But I am frank to say that GATT's impact on children or its failure to do anything about the problem of child labor in the world is reason enough to oppose it all by itself.

Madam President, I reserve the remainder of my time.

Mr. MOYNIHAN. Madam President, I ask unanimous consent that an article by Prof. Kaushik Basu of Cornell University be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the New York Times, Nov. 29, 1994]

THE POOR NEED CHILD LABOR

(By Kaushik Basu)

Something like 100 million children worldwide work as laborers, 98 percent of them in poor countries. Many, if not most, work for long hours and minuscule wages.

This tragic phenomenon is being used as a club with which to beat the General Agreement on Tariffs and Trade, which Congress is considering this week. In a separate measure, some lawmakers have proposed banning the importing of goods produced using the labor of children under 15. GATT includes no such restrictions, although it might take up the issue in the future.

But while the effort to ban child labor has the support of many well-meaning people and groups, it is based on deeply flawed premises.

First, its inspiration is clearly protectionist. An early version of the bill reads, "Adult workers in the United States and other developed countries should not have their jobs imperiled by imports produced by child labor in developing countries." (The current version, which is far more polished, omits that sentence.)

But even if the bill's sponsors are motivated solely by concern for children, their logic does not stand up. To seek the abolition of child labor is to claim that we are more concerned about the well-being of the child than are the child's parents. And while some parents in every country are callous and abusive, it is patronizing in the extreme to suppose that the cause of mass child labor in so many poor countries is lack of parental concern.

Few parents would send their children to work unless they were driven to it by poverty and hunger. While child labor should be

illegal where it is aberrant, as it is in rich countries, it needs a different antidote where it is a mass phenomenon.

In those countries, the right way to battle the problem is to improve opportunities for the poor—to provide not just free education, for example, but incentives (like free meals in school) to make sure that the poor take advantage of it. Such measures can be described as collaborative, since they rely on choice—unlike a ban, which overrides individual choice.

Of course, it can be argued that a U.S. ban on tainted imports would compel third world governments to adopt collaborative measures to minimize child labor. The current version of the child labor bill does talk, if briefly, about the need to support primary education, rehabilitation and other efforts.

But this provision is clearly an afterthought; it did not appear in the earlier version, and there is no indication how it would be carried out. More important, it puts too much faith in governments' capacity to do what is best for children.

It is much more likely that a third world government with chronic fiscal problems, when confronted by a ban on the export of products made with child labor, will do exactly what the U.S. bill proposes: ban child labor. And that would be an unmitigated disaster for most families that send their children to work.

Some time ago in New Delhi, we had a 13-year-old girl, Lalita, who came to work in our house mornings and evenings. After a couple of weeks, in an effort to banish child labor from our household, we gave her notice and offered to pay her a little not to work.

Lalita came back the next morning with her father. A bedraggled man, he was a rickshaw puller. It was immediately evident that he loved his child. He begged us to take her back because the family would perish otherwise. We decided to listen to him.

I cannot hope to change the minds of those who seek a ban on child labor simply to protect their own profits. But for the larger number who support the bill out of a genuine concern for the welfare of children, common sense dictates that an outright prohibition is the wrong way to go. While we must make every effort to make child labor unnecessary, we must not ban it.

Mr. MOYNIHAN. Madam President, I congratulate the Senator from Ohio, and I call to his attention the ILO, the International Labour Organisation convention concerning the minimum age for admission to employment, Convention Number 138. It is a happy but not coincidental circumstance that in 1934 when the reciprocal trade agreements program began the United States joined the International Labour Organisation. This was an undertaking which President Roosevelt felt he had an obligation he had inherited from Woodrow Wilson. The first meeting of the ILO took place just down Constitution Avenue in the Pan American Building, and in which we did join. We have been a member now for 60 years, and we have finally begun ratifying ILO conventions, which are treaties and have the force of law.

In the last 5 or 6 years we have ratified four. I have been the floor leader generally speaking, for example, on the most recent concerning the abolition of forced labor, in 1991. Senator PELL has been very supportive in the Committee on Foreign Relations. Of these four labor treaties, as they are interesting to call, with one exception all the votes were unanimous. For the one that was not it was 81 to 2.

So I hope that we might take the vigorous statement of the Senator from Ohio and his challenge to address the Convention No. 138.

I ask unanimous consent that the text of that Convention be placed in the RECORD also.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

CONVENTION NO. 138.—CONVENTION CONCERNING MINIMUM AGE FOR ADMISSION TO EMPLOYMENT[1]

The General Conference of the International Labour Organisation,

Having been convened at Geneva by the Governing Body of the International Labour Office, and having met in its Fifty-eighth Session on 6 June 1973, and

Having decided upon the adoption of certain proposals with regard to minimum age for admission to employment, which is the fourth item on the agenda of the session, and

Noting the terms of the Minimum Age (Industry) Convention, 1919, the Minimum Age (Sea) Convention, 1920, the Minimum Age (Agriculture) Convention, 1921, the Minimum Age (Trimmers and Stokers) Convention, 1921, the Minimum Age (Non-Industrial Employment) Convention, 1932, the Minimum Age (Sea) Convention (Revised), 1936, the Minimum Age (Industry) Convention (Revised), 1937, the Minimum Age (Non-Industrial Employment) Convention (Revised), 1937, the Minimum Age (Fishermen Convention, 1959, and the Minimum Age (Underground Work) Convention, 1965, and

Considering that the time has come to establish a general instrument on the subject, which would gradually replace the existing ones applicable to limited economic sectors, with a view to achieving the total abolition of child labour, and

Having determined that these proposals shall take the form of an international Convention,

adopts this twenty-sixth day of June of the year one thousand nine hundred and seventy-three the following Convention, which may be cited as the Minimum Age Convention, 1973:

ARTICLE 1

Each Member for which this Convention is in force undertakes to pursue a national policy designed to ensure the effective abolition of child labour and to raise progressively the minimum age for admission to employment or work to a level consistent with the fullest physical and mental development of young persons.

ARTICLE 2

1. Each Member which ratifies this Convention shall specify, in a declaration appended to its ratification, a minimum age for admission to employment or work within its territory and on means of transport registered in its territory; subject to Articles 4 to 8 of this Convention, no one under that age shall be admitted to employment or work in any occupation.

2. Each Member which has ratified this Convention may subsequently notify the Director-General of the International Labour Office, by further declarations, that it specifies a minimum age higher than that previously specified.

3. The minimum age specified in pursuance of paragraph 1 of this Article shall not be less than the age of completion of compulsory schooling and, in any case, shall not be less than 15 years.

4. Notwithstanding the provisions of paragraph 3 of this Article, a Member whose economy and educational facilities are insufficiently developed may, after consultation with the organisations of employers and workers concerned, where such exist, initially specify a minimum age of 14 years.

5. Each Member which has specified a minimum age of 14 years in pursuance of the provisions of the preceding paragraph shall include in its reports on the application of this Convention submitted under article 22 of the Constitution of the International Labour Organisation a statement—

(a) that its reason for doing so subsists; or

(b) that it renounces its right to avail itself of the provisions in question as from a stated date.

ARTICLE 3

1. The minimum age for admission to any type of employment or work which by its nature or the circumstances in which it is carried out is likely to jeopardise the health, safety or morals of young persons shall not be less than 18 years.

2. The types of employment or work to which paragraph 1 of this Article applies shall be determined by national laws or regulations or by the competent authority, after consultation with the organisations of employers and workers concerned, where such exist.

3. Notwithstanding the provisions of paragraph 1 of this Article, national laws or regulations or the competent authority may, after consultation with the organisations of employers and workers concerned, where such exist, authorise employment or work as from the age of 16 years on condition that the health, safety and morals of the young persons concerned are fully protected and that the young persons have received adequate specific instruction or vocational training in the relevant branch of activity.

ARTICLE 4

1. In so far as necessary, the competent authority, after consultation with the organisations of employers and workers concerned, where such exist, may exclude from the application of this Convention limited categories of employment or work in respect of which special and substantial problems of application arise.

2. Each Member which ratifies this Convention shall list in its first report on the application of the Convention submitted under article 22 of the Constitution of the International Labour Organisation any categories which may have been excluded in pursuance of paragraph 1 of this Article, giving the reasons for such exclusion, and shall state in subsequent reports the position of its law and practice in respect of the categories excluded and the extent to which effect has been given or is proposed to be given to the Convention in respect of such categories.

3. Employment or work covered by Article 3 of this Convention shall not be excluded from the application of the Convention in pursuance of this Article.

ARTICLE 5

1. A Member whose economy and administrative facilities are insufficiently developed may, after consultation with the organizations of employers and workers concerned,

[1] Date of coming into force: 19 June 1976.

where such exist, initially limit the scope of application of this Convention.

2. Each Member which avails itself of the provisions of paragraph 1 of this Article shall specify, in a declaration appended to its ratification, the branches of economic activity or types of undertakings to which it will apply the provisions of the Convention.

3. The provisions of the Convention shall be applicable as a minimum to the following: mining and quarrying; manufacturing; construction; electricity, gas and water; sanitary services; transport, storage and communication; and plantations and other agricultural undertakings mainly producing for commercial purposes, but excluding family and small-scale holdings producing for local consumption and not regularly employing hired workers.

4. Any Member which has limited the scope of application of this Convention in pursuance of this Article—

(a) shall indicate in its reports under article 22 of the Constitution of the International Labour Organization the general position as regards the employment or work of young persons and children in the branches of activity which are excluded from the scope of application of this Convention and any progress which may have been made towards wider application of the provisions of the Convention;

(b) may at any time formally extend the scope of application by a declaration addressed to the Director-General of the International Labour Office.

ARTICLE 6

This Convention does not apply to work done by children and young persons in schools for general, vocational or technical education or in other training institutions, or to work done by persons at least 14 years of age in undertakings, where such work is carried out in accordance with conditions prescribed by the competent authority, after consultation with the organizations of employers and workers concerned, where such exist, and is an integral part of—

(a) a course of education or training for which a school or training institution is primarily responsible;

(b) a programme of training mainly or entirely in an undertaking, which programme has been approved by the competent authority; or

(c) a programme of guidance or orientation designed to facilitate the choice of an occupation or of a line of training.

ARTICLE 7

1. National laws or regulations may permit the employment or work of persons 13 to 15 years of age on light work which is—

(a) not likely to be harmful to their health or development; and

(b) not such as to prejudice their attendance at school, their participation in vocational orientation or training programmes approved by the competent authority or their capacity to benefit from the instruction received.

2. National laws or regulations may also permit the employment or work of persons who are at least 15 years of age but have not yet completed their compulsory schooling on work which meets the requirements set forth in sub-paragraphs (a) and (b) of paragraph 1 of this Article.

3. The competent authority shall determine the activities in which employment or work may be permitted under paragraphs 1 and 2 of this Article and shall prescribe the number of hours during which and the conditions in which such employment or work may be undertaken.

4. Notwithstanding the provisions of paragraphs 1 and 2 of this Article, a Member which was availed itself of the provisions of paragraph 4 of Article 2 may, for as long as it continues to do so, substitute the ages 12 and 14 for the ages 13 and 15 in paragraph 1 and the age 14 for the age 15 in paragraph 2 of this Article.

ARTICLE 8

1. After consultation with the organizations of employers and workers concerned, where such exist, the competent authority may, be permits granted in individual cases, allow exceptions to the prohibition of employment or work provided for in Article 2 of this Convention, for such purposes as participation in artistic performances.

2. Permits so granted shall limit the number of hours during which and prescribe the conditions in which employment or work is allowed.

ARTICLE 9

1. All necessary measures, including the provisions of appropriate penalties, shall be taken by the competent authority to ensure the effective enforcement of the provisions of this Convention.

2. National laws or regulations or the competent authority shall define the persons responsible for compliance with the provisions giving effect to the Convention.

3. National laws or regulations or the competent authority shall prescribe the registers or other documents which shall be kept and made available by the employer; such registers or documents shall contain the names and ages or dates of birth, duly certified whenever possible, of persons whom he employs or who work for him and who are less then 18 years of age.

ARTICLE 10

1. This Convention revises, on the terms set forth in this Article, the Minimum Age (Industry) Convention, 1919, the Minimum Age (Sea) Convention, 1920, the Minimum Age (Agriculture) Convention, 1921, the Minimum Age (Trimmers and Stokers) Convention, 1921, the Minimum Age (Non-Industrial Employment) Convention, 1932, the Minimum Age (Sea) Convention (Revised), 1936, the Minimum Age (Industry) Convention (Revised), 1937, the Minimum Age (Non-Industrial Employment) Convention (Revised), 1937, the Minimum Age (Fishermen) Convention, 1959, the Minimum Age (Underground Work) Convention, 1965.

2. The coming into force of this Convention shall not close the Minimum Age (Sea) Convention (Revised), 1936, the Minimum Age (Industry) Convention (Revised), 1937, the Minimum Age (Non-Industrial Employment) Convention (Revised), 1937, the Minimum Age (Fishermen) Convention, 1959, or the Minimum Age (Underground Work) Convention, 1965, to further ratification.

3. The Minimum Age (Industry) Convention, 1919, the Minimum Age (Sea) Convention, 1920, the Minimum Age (Agriculture) Convention, 1921, and the Minimum Age (Trimmers and Stokers) Convention, 1921, shall be closed to further ratification when all the parties thereto have consented to such closing by ratification of this Convention or by a declaration communicated to the Director-General of the International Labour Office.

4. When the obligations of this Convention are accepted—

(a) by a Member which is a party to the Minimum Age (Industry) Convention (Revised), 1937, and a minimum age of not less than 15 years is specified in pursuance of Article 2 of this Convention, this shall *ipso jure* involve the immediate denunciation of that Convention,

(b) in respect of non-industrial employment as defined in the Minimum Age (Non-Industrial Employment) Convention, 1932, by a Member which is a party to that Convention, this shall *ipso jure* involve the immediate denunciation of that Convention,

(c) in respect of non-industrial employment as defined in the Minimum Age (Non-Industrial Employment) Convention (Revised), 1937, by a Member which is a party to that Convention, and a minimum age of not less than 15 years is specified in pursuance of Article 2 of this Convention, this shall *ipso jure* involve the immediate denunciation of that Convention,

(d) in respect of maritime employment, by a Member which is a party to the Minimum Age (Sea) Convention (Revised), 1936, and a minimum age of not less than 15 years is specified in pursuance of Article 2 of this Convention or the Member specifies that Article 3 of this Convention applies to maritime employment, this shall *ipso jure* involve the immediate denunciation of that Convention,

(e) in respect of employment in maritime fishing, by a Member which is a party to the Minimum Age (Fishermen) Convention, 1959, and a minimum age of not less than 15 years is specified in pursuance of Article 2 of this Convention or the Member specifies that Article 3 of this Convention applies to employment in maritime fishing, this shall *ipso jure* involve the immediate denunciation of that Convention,

(f) by a Member which is a party to the Minimum Age (Underground Work) Convention, 1965, and a minimum age of not less than the age specified in pursuance of that Convention is specified in pursuance of Article 2 of this Convention or the Member specifies that such an age applies to employment underground in mines in virtue of Article 3 of this Convention, this shall *ipso jure* involve the immediate denunciation of that Convention,

if and when this Convention shall have come into force.

5. Acceptance of the obligations of this Convention—

(a) shall involve the denunciation of the Minimum Age (Industry) Convention, 1919, in accordance with Article 12 thereof,

(b) in respect of agriculture shall involve the denunciation of the Minimum Age (Agriculture) Convention, 1921, in accordance with Article 9 thereof,

(c) in respect of maritime employment shall involve the denunciation of the Minimum Age (Sea) Convention, 1920, in accordance with Article 10 thereof, and of the Minimum Age (Trimmers and Stokers) Convention, 1921, in accordance with Article 12 thereof,

if and when this Convention shall have come into force.

Articles 11–18: Standard final provisions.[1]

Mr. MOYNIHAN. Madam President, I thank the Presiding Officer and welcome her back enthusiastically. And I yield 15 minutes to my eloquent and indomitable friend, the senior Senator from New Jersey.

The PRESIDING OFFICER. The Senator from New Jersey is recognized for 15 minutes.

Mr. BRADLEY. Madam President, I thank the distinguished chairman of

[1] See Appendix I.

the committee for yielding. I thank the distinguished Senator from Ohio for his comments. I agree fully with him on the need to ratify the convention on the rights of the child. I have been in this body and on this floor and sponsored resolutions for the last 5 years with the distinguished Senator from Indiana has a cosponsor, and it is bewildering to me why the administration would not ratify the convention on the rights of the child.

I further agree with the Senator from Ohio in his call for the ILO agreement. I think it is long past due that we be a signatory to that agreement. I disagree with him strongly, however, on GATT. I rise in strong support of the Uruguay round agreement. I think this agreement is not only good for the United States. I think it is a requirement for continued American prosperity.

Let me say that again because I think we are in danger of losing sight of the stakes in our vote. Approval of the Uruguay round agreement is a prerequisite to continued American prosperity. If we reject the agreement, opt out of the international trading system, we will consign ourselves to economic stagnation. We will deny ourselves export-led growth, competitive industries with more jobs, and an expanding tax base. We will in effect by voting no on GATT be putting a cap on prosperity.

Madam President, in March 1985, actually for about the previous year, I was a member of a group that was established by the Secretary General of GATT. We met on a regular basis, and we were asked if we could to issue a report on what should be the goals of a new GATT round. I was the only American in that group. I was the only politician worldwide. There were 7 members from different regions of the world. We issued a report in March of 1985 with 15 recommendations for the upcoming GATT negotiations that became the Uruguay round.

The most important of those recommendations were those increasing the transparency of trade policies; in other words, making what people do more obvious to everybody, bringing trade and textile services and agricultural products into the GATT because they had not been in the GATT or had special rules; reducing and controlling nontariff barriers, those things countries would do that would have the same effect of denying access to markets; tightening rules on subsidies, those things countries do under the guise of helping a particular area sector that in effect distorts trade; and improving GATT's dispute system, having some way to resolve disputes when one country says one thing and another says something else, pursuant to one set of rules.

Madam President, subsequent to that report, the Omnibus Trade Competitiveness Act of 1988 set forth negotiating objectives for the Uruguay round. The law listed three overall trade negotiating objectives: First, more open, equitable and reciprocal market access. Second, reduction and elimination of barriers and other trade-distorting policies and practices. Third, a more effective system of international trading disciplines and procedures.

Madam President, these two documents establish what I think is sound criteria by which we can evaluate the Uruguay round. The final product, in my view, substantially meets the criteria that were laid out by the group in 1985 and by the U.S. Congress in the Omnibus Trade Competitiveness Act of 1988. First and foremost, this agreement opens markets. It lowers tariffs worldwide by $744 billion—$744 billion. It is the world's largest tax cut in history, reducing tariffs. On manufactured products, the average cut in tariffs is over one-third. If we were going to export a manufactured good to a country prior to this agreement and we were going to sell it in a country for $100, with the tariff it would be $133. Now we have cut that by a third. Because the United States entered the negotiations with low tariffs and because we are the world's greatest exporting nation, we gain the most from these across-the-board reductions. These are not reductions in this sector or that sector, but they are across the board, a one-third cut. Therefore, it is obvious that the country that is the biggest exporter will benefit the most, especially in the zero-for-zero sectors where tariffs will be eliminated entirely. In some sectors there will be no tariffs. The United States will have a tremendous advantage.

The agreement further opens markets by restricting the use of nontariff barriers. It abolishes things like voluntary export restraints, where two governments get together and they say we could do this or that, but if you do that on your own, we will not make a big deal, so you do it on your own, and they wink at each other and trade is distorted and employment drops in export sectors. Well, they are gone. It also converts quotas into tariffs, which cannot be raised but can be negotiated down.

What happens so often is a country says we do not have a tariff. No, but they have a quota, which is the same thing, because the price to the consumer is higher. But you say, no, there is a quota and we are going to make that a tariff so that the public can see what it costs them. You are paying more for your product, and we are changing the quota to the tariff so you can see how much more you are paying for your product.

The result is to bring trade barriers under this agreement into the light of day, so consumers can understand why they pay too much for their goods. The best antidote to protectionism, in my view, is transparency. This agreement makes barriers more transparent. Everybody will be able to see who is doing what and why. It will not be in the dark of night, stuck in some bill and some bureaucracy. It will all be right there, and tariffs will be clear to everybody, and they will be cut.

The Uruguay round agreement also brings important new sectors into the international economy under the global trading system. It phases out textile quotas, reduces agricultural subsidies and quotas, increases intellectual property protection, brings trade and services into the system. The result is that our productive industries will have greater opportunities to compete on the basis of merit, rather than on the basis of political influence.

This was one of our most important objectives, as we thought about a new round. You cannot have a world economy where the fastest growing segment of the economy—services—is not included in any kind of trade agreement. It was not until this round. It will be included in this round. And then, of course, we have countries around the world that see an American movie or an American drug, or they see how it works, and they pirate the movie or the product and sell it in their country, and they pay nothing to the United States that invented the product and spent the billions of dollars necessary to invent the medicine or make the movie. Prior to this agreement, there was nothing you could do about piracy. Under this agreement, intellectual property is now included for the first time ever. It is an enormous advance.

While it is unfortunately unrealistic to ban all subsidies altogether—I think we probably should ban all subsidies—but this agreement defines them more precisely and brings them into the WTO system. The agreement's dispute resolution mechanism provides recourse for those who feel they are injured by subsidies. Even more important over the long-term, the subsidies agreement will open Government subsidy policy to scrutiny by taxpayers. Once voters understand the cost of Government subsidy programs, they will put, I believe, pressure on their elected representatives to curb them.

Finally, rules need enforcement. You cannot have a rule-based multilateral trading system unless you have some way to enforce the rules. We need only look at our endless trade rows with Japan for proof. One of the most important features of this agreement is that it strengthens the dispute settlement system. For the first time, no single country can block a panel report. In the past, the losing party could deny us our rights. We could win and they could say, "I am sorry." Under the WTO procedure, that can no longer happen. Either the offending country will change its policy, or we can exact retaliation against other exports.

This does not mean, however, that we have given the WTO sovereignty over U.S. law, as some have asserted. When we lose cases—and we will, although statistics show we lose less often than any other country—the result does not automatically change U.S. law. I will quote from the legislation so we understand this. This is what it says:

No provision of any of the Uruguay round Agreements, nor the application of any such provision to any person or circumstance, that is inconsistent with any law of the United States shall have effect.

In other words, nothing that violates U.S. law will have any effect. The decision made will have no effect. Only the Congress of the United States can change American Federal law. That has been the case with GATT for 47 years, and it is the case now under the WTO. Nor can the WTO change State and local laws. Indeed, in the highly unlikely incidence that the Federal Government would want to sue to change the State and local law as a result of an adverse panel ruling, it will only be able to do so after a series of safeguards have been implemented.

I might note in this regard that in the nearly half century that the GATT has been in effect, the Federal Government has never sued to overturn State or local law because of an adverse GATT panel ruling—not one time.

Madam President, we have heard concerns expressed by our colleagues and our constituents that by strengthening the dispute settlement resolution system, we are putting ourselves at risk.

Madam President, I think most Americans appreciate the value of playing by the rules, whether in trade or sports or politics or life. Given the competitiveness of our industries, we gain when the rules are fair and when the rules can be enforced.

Indeed, take a look at what happened since 1947. We have been by far the largest user of the existing and continuing GATT panel system, having brought over a third of all the complaints from 1947 to 1993. The United States has brought over one-third of all the complaints from 1947 to 1993. That is over twice as many as all of Europe has brought. Japan is barely even on the charts in terms of bringing cases.

The United States wins in GATT more often than other countries do. As a complainant, as a country that says some other country has broken the rules, the United States achieved a positive result in 80 percent of the cases initiated, either because of a favorable panel ruling or a negotiated settlement. This is much better than the GATT average of 64 percent.

In other words, when we brought a case, we have won the case four out of five times. Overall the other countries of the world win the case about three out of five times.

As a respondent, in other words, a country that is charged with violating the rules, we have defeated the charge 52 percent of the time, which is far above the average of about 23 percent.

So what we have done when other countries have charged us under this system the people characterize as a disaster, is that we have defended ourselves effectively over half the time. The rest of the world is defending themselves effectively to charges that they are breaking the rules about 20 percent of the time.

I do not think that this should surprise anyone, because we play by the rules, and it has always been in our interest that the rules be enforced. The Uruguay round's dispute resolution provisions simply make it more likely that the rules will be enforced.

May I have an additional 5 minutes?

Mr. MOYNIHAN. Madam President, I am happy to yield an additional 5 minutes to the Senator.

The PRESIDING OFFICER. Without objection, the Senator is recognized for an additional 5 minutes.

Mr. BRADLEY. Madam President, let us get to the bottom line. The Uruguay Round Agreement will bring direct dollars-and-cents benefits to the American economy. The numbers bear repeating. For example, the 1994 Economic Report of the President estimates that the aggregate increase in U.S. annual income after 10 years will be about $100 and $200 billion, the equivalent of 1.5 or 3 percent of the whole income of the economy. That means that this agreement alone, on conservative estimates, is the equivalent of a free year of economic growth.

The Treasury Department estimates that by the year 2004 the average family of four in the United States will be $1,700 richer every year because of this agreement. More jobs, higher income, more growth. How often are we able to put $1,700 in a family's bank account and reduce the budget deficit at the same time? Not very often. This agreement will do that.

Madam President, exports are essential to economic growth. That is the lesson of the Asia-Pacific region, where first Japan, then the "Dragons," and now China are exporting their way to growth.

It is also the lesson of our experience. Export growth has accounted for half of the total U.S. economic growth over the past 5 years. Half of all our growth comes from exports that are tied to jobs. This agreement, on conservative estimates, will increase our merchandise exports $150 billion per year, and our agricultural exports about $8.5 billion per year by the year 2004. And that does not even count the boost in services exports that we will get because we are bringing services under the rules. That is a very conservative estimate as to what we will increase in exports.

Economic growth means jobs. The Treasury Department estimates that the agreement will lead to 300,000 to 700,000 net new jobs after 10 years. These will be high-paying jobs, since the jobs in the export sector pay over 10 percent more than average.

Now, Mr. President, we are all Senators from States. We represent our States as well as thinking of the national interest. My State of New Jersey is going to be a major beneficiary of this GATT agreement. We exported 14.5 billion dollars' worth of merchandise last year. We have increased our exports since 1987 by 90 percent—90 percent increase in exports. The only thing increasing jobs in New Jersey in the last 5 years, or since 1987, has been a boom in exports, New Jersey's manufacturing exports.

People always say manufacturing is in danger. The manufacturing exports directly supported, in my State, about 200,000 jobs. The tariff reductions, intellectual property provisions, service rules, and other aspects of the Uruguay Round Agreement will flow through to New Jersey in the form of even greater export growth, more export jobs, not to mention reduced prices for New Jersey consumers. The Treasury Department estimates that New Jersey will be $5.4 billion richer every year, and that 18,000 more New Jerseyans will be employed as a result of this agreement.

That is a pretty good deal. New Jersey and all America have benefited from a healthy international trading system. Indeed, measured by volume, America's exports have risen faster than those of any other G–7 country, including Japan, over the past 5 years we have been talking of. That is because we have done more than any G–7 country to adapt our economy to the new world we face. We have made changes we are more competitive.

I ask for 3 more minutes.

Mr. MOYNIHAN. Yes.

The PRESIDING OFFICER (Mr. DORGAN). The Senator is recognized for 3 additional minutes.

Mr. BRADLEY. As a result, we have become once again the world's most competitive economy. According to the 1994 World Competitiveness Report, the United States is the most competitive economy. We should, on this evidence, pass this agreement and stride confidently into the future.

However, Mr. President, we will be casting at least two votes on this agreement, the agreement for it, and then the budget waiver. And it is not just a simple up-or-down majority vote, but we have a 60-vote point of order that we need to pass. Under the Senate paygo budget rule, any increase in spending or decrease in taxes will be offset by equal savings elsewhere for 10 years—10 years. Thus, under Senate rules we must make up the revenue lost because of this agreement's tariff reductions over 10 years—even though the legislation before us fully complies with the Budget Enforcement Act, and

even though the revenue generated by the extra growth that this agreement will unleash, more than makes up for the lost tariff revenue. Because the legislation before us finances only the first 5 years it is subject to this 60-vote point of order.

I take, personally, a back seat to no one in efforts to cut the budget. I have offered amendments to cut unnecessary spending. I have offered a line-item veto. I have introduced legislation that eliminates procedural obstacles preventing effective steps to cut appropriation levels. I have worked and will continue to work to bring our budget under control. But torpedoing the Uruguay round is not the way to cut the deficit.

Indeed, a vote against the agreement on the budget point of order is, in fact, a vote against budget stringency. Why do I say that? If this agreement is killed for narrow technical reasons, we will pay with less growth, fewer jobs, and as a result, a higher budget deficit.

The figures bear this out, whether it is the Joint Economic Committee Republican staff, DRI/McGraw Hill, or the International Institute of Economics.

Make no mistake, this vote on the budget point of order is a vote on the agreement. My colleagues cannot vote against the budget waiver hoping to then vote for the agreement, for if the first vote is lost, there will not be a second vote.

But let us get back to the main and final point about this vote. What the Uruguay round does is position the United States to take advantage of its enhanced competitiveness in an expanding global market. And it positions us to take a bigger bite out of a bigger apple.

The choice is clear. We should ratify this agreement.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. MOYNIHAN addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from New York.

Mr. MOYNIHAN. Mr. President, may I simply congratulate the Senator from New Jersey for a comprehensive and convincing statement of the whole case. And, may I add, it was the good fortune of the Senate that he was asked to be a member of the GATT advisory panel in 1985. It shows.

I yield the floor.

Mr. PACKWOOD addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Oregon.

Mr. PACKWOOD. Mr. President, I yield 15 minutes to the Senator from Washington.

The PRESIDING OFFICER. The Senator from Washington [Mr. GORTON] is recognized for 15 minutes.

Mr. GORTON. Mr. President, the debate over the General Agreement on Tariffs and Trade has been conducted at two highly distinct levels: The first, of course, is the desirability of freer trade among the nations of the world; the second, with respect to the impact of this agreement on the sovereignty of the United States, the ability of the United States to enforce its own laws domestically.

With respect to the first of those two subjects, the desirability of freer international trade, I believe that the debate divides Americans into optimists and pessimists. The optimists see the United States as a highly competitive economy in which the great majority of its people will be benefited by a more open trading system around the world. The pessimists believe that the United States fundamentally is noncompetitive with less developed nations and, therefore, by even a modest greater opening of its own markets, that Americans will, by and large, suffer from a free trade regime.

This is a question, of course, which is being argued on the basis of theories and comparative wage scales and cultural and social differences, and any such look into the future is obviously subject to debate.

At the same time, it should seem obvious to all that we have such a long history in the world, both in eras during which trade restrictions were increased on the part of many countries and then most of the post-World War II era in which in most nations trade barriers were reduced, so that we do not really need to argue from theory but can argue from history itself.

I believe that every previous General Agreement on Tariffs and Trade and, for that matter, every previous regional or bilateral lowering of trade barriers has resulted in sharply increased prosperity. Obviously, reducing those barriers results in an increase in trade among all of the nations which are involved. But with only the most minor exceptions, the prosperity of the people of each of the participating parties to previous General Agreements on Tariff and Trade has increased. There are individual dislocations, there are sectorial dislocations, but when one takes the good of the people of a nation as a whole, it has been advanced by past agreements.

I am confident, as a result, that when we ask ourselves the question, will the per capita income of Americans increase and increase measurably as a result of an approval of this General Agreement on Tariffs and Trade, that the answer to that question is yes. Will consumer choice increase as a result of this agreement? The answer is yes. In fact, reputable economists have estimated that the increase in per capita or per family income is well up into four digits on an annual basis.

Just a year ago, we had a similar debate over the North American Free Trade Agreement involving only two other nations in addition to the United States. We heard many of the same counter arguments that we are listening to today, but in a relatively brief period of time of less than a year, trade between Mexico and the United States has increased sharply. Literally thousands of new jobs have been created in the United States of America as a result, and we have a somewhat more peaceful and prosperous immediate neighbor.

Yet, many economists say that the impact of a General Agreement on Tariffs and Trade on the positive side of the scales of balance will be between 10 and 50 times greater than that of the North American Free Trade Agreement, an almost obvious truth due to the much, much larger number of nations that are involved in this particular agreement.

What many forget is that we have a General Agreement on Tariffs and Trade today. We have had changes in the past in that General Agreement on Tariffs and Trade. And very few, if any Americans, would simply cancel everything that has been done in the international trade field during the course of the last 40 or 50 years and return us to our international trade policies of the 1930's.

This agreement, of course, extends beyond subsidies on goods to reducing barriers with respect to subsidies, with respect to many services, which have never been covered by previous General Agreements on Tariffs and Trade, and with respect to intellectual property. So as we examine this agreement, simply from the perspective of whether or not international trade will increase as a result of its passage and whether or not that increase will benefit most Americans, the answer that history gives us reinforces the answer that theory gives us. Prosperity in this country and around the world will be increased, will be enhanced by the ratification of this agreement.

The second level of debate, the debate over the sovereignty of this Nation, is in some respect more important, more visceral, more emotional, and more significant. No nation, the United States leading among them, wishes to give up a portion of its sovereignty to any international body much less an international body which is one country one vote.

At the same time, it is the United States of America itself which has been frustrated by the lack of enforceability of decisions under the previous General Agreement on Tariffs and Trade. We are far more sinned against than sinning at the present time, and we have not been able to get nations which have violated the present agreement to agree to cease those violations, even when panels have determined that those violations are absolutely clear. And the World Trade Organization is designed and almost certainly, in effect, will amount to an organization

which is more likely to have its decisions adhered to by nations against whom it rules than the present system does.

That, however, is not at the essence of sovereignty. We lose sovereignty only if the World Trade Organization has either internal enforcement authority within the United States or, alternatively, our commitment to it is irrevocable. Neither of those propositions is true. We still can, as can all other countries, defy the edicts of the World Trade Organization. And the recourse of the Nation we have wronged in the eyes of the World Trade Organization is to impose trade sanctions against us—exactly what can happen today and does happen frequently today in the absence of a World Trade Organization.

And, if one proposition has become increasingly clear as this issue has been debated during the course of the last 3 weeks, the United States obviously can withdraw from that organization, or from GATT, essentially at will. Under the agreement made between the distinguished senior Senator from Kansas, our leader, and the President, it will give to the Congress of the United States an ability to work in that field, as well as to the President of the United States. Our sovereignty is not implicated by the World Trade Organization.

Could that World Trade Organization be better? Of course, it could. But we are faced in this connection with the ability to create a far freer and more open trade regime in the world, greatly to the prosperity of the people of the United States; an agreement which has been negotiated over the Presidencies of three different Presidents of the United States with different attitudes, getting the best deal they could possibly get. We cannot, in the Congress of the United States, unilaterally write a better deal. This is a good deal for the United States. It is a good deal for the world. It will contribute to our prosperity and it ought to be passed.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. DORGAN addressed the Chair.

The PRESIDING OFFICER (Mr. HOLLINGS). The Senator from North Dakota.

Mr. DORGAN. Mr. President, with the authority of the Presiding Officer, I yield myself 20 minutes.

Mr. President, we are discussing here an extraordinary piece of economic policy for this country. And, as we begin this discussion, I thought it would be useful to present a chart that shows where we are. This chart shows our merchandise trade deficit in this country. The red lines going down represent red ink, trade deficits, a hemorrhaging in this country. This is an extraordinarily serious trade deficit that represents a serious problem for this country. All of this red means less income for our country, fewer jobs in America. All of this red means a failed trade policy in our country.

With this as a backdrop—America as the largest debtor Nation in the world; a failed, collapsed trade policy resulting this year in the largest trade deficit in American history—we are told by the same bipartisan group of people who have hugged and embraced this trade policy now for 30 or 40 years: We want to do more of the same. Let us put a bigger engine in the same old vehicle.

There is an old saying: When you find yourself in a hole, it is time to stop digging. The crowd that would have us pass GATT says that when you find yourself in a hole, let's pass out more shovels.

This policy, which comes to the Senate as GATT, is a trade policy that is fundamentally hurting America. I am for free markets. I am for expanded trade. But that must be accompanied by a fresh, new admission price to our marketplaces. That admission price should say we will trade with anybody, as long as they pay a living wage, have working conditions that are fair and safe, and are not fouling the world's air and the water. There should be some minimum conditions that must be met.

We should not say let us simply have open markets and free trade and go ahead, you producers, and hire 12-year-olds working 12 hours a day, paid 12 cents an hour, and send the products of their labor into our marketplace to eliminate our jobs. That might satisfy some—certainly the large international businesses that profit from it—but it does not satisfy me and it does not satisfy this country's economic interests either.

Let me read some of the arguments of the proponents of this agreement. I hope those who support GATT and are urging us to pass it would listen to this.

> These agreements offer new opportunities for all Americans. For American farmers, the agreements expand world markets for American farm products. For American workers, the agreements offer more jobs, higher income, and more effective responses to unfair foreign competition.

Oh, no, that is not the argument made today, Mr. President. That is the argument made in 1979 for the Tokyo round. The argument will be made today, in exactly the same language by many of the same people. So let us look at what the outcome was. Better for farmers? More jobs? Higher incomes for American workers? Oh, no. Following the Tokyo round, agricultural exports since 1980 are up just 5 percent, while agriculture imports since 1980 are up a whopping 32 percent.

American workers seeing good times? No. A net loss of 3.3 million manufacturing jobs since 1979. Higher incomes? No. Sixty percent of American households now have lower income than they had a decade ago.

Another argument: "These agreements will result in lower prices, increased competition and greater prosperity for all the American people." An argument made today that also was made in 1979 about the Tokyo round.

Where is the greater prosperity? Real hourly wages for U.S. production workers, which had grown 3 to 5 percent annually for many years, stopped growing in 1973 and have now declined to mid-1960's levels on a real-income basis.

This new order, the new order that was promised in 1979, is identical to the promises we are hearing today: More jobs, more income.

Nonsense. The record shows just the opposite happened.

Let me share with my colleagues something very interesting that I read last evening. This comes from the Finance Committee from 1986. They are talking about the Tokyo round completed in 1979.

> The committee is concerned the Tokyo round of trade negotiations and the legislative branch and executive branch's actions to implement it have not had the effect of improving the American standard of living intended.

They go on to talk about the sea of red ink and the trade deficits. The Finance Committee itself said the Tokyo round did not work. Exactly the same arguments that were used to promote that trade agreement in 1979 that we hear again today in connection to the Uruguay round.

My point is that those arguments that drove the Tokyo round in 1979 were wrong. They are demonstrably wrong. The facts show it. Our economy shows it. Lost jobs, lost incomes show it. Do these arguments have any credibility anymore?

We had an election recently. The election was about change. Does anyone doubt that the election was about change? Yet this trade strategy is business as usual. You strip away all the brush here and what you find at the roots is one central fact: The largest international businesses in the world want to produce where it is cheap and sell back into our marketplace. That might be good for international business' profits, but it certainly is not good for the prospect of jobs and decent incomes for American families.

Open markets? Sure. I believe in open markets. But I believe there is an admission price to those open markets. You have to pay a living wage. You have to care about worker safety. You have to care about the things that we fought for 50 years in this country to achieve that have made life better for Americans.

And if you strip away all the nonsense, all the fractured statistics, all the charts and all the graphs, there is one central question we must ask ourselves: Is the standard of living for the American family improving or declining? In other words, will this agreement, which asks low-wage and low-

skill Americans, who comprise nearly two-thirds of the work force, to compete against 2 or 3 billion low-skilled people in the world, many of whom are willing to work for 8 cents, 20 cents, or 80 cents an hour—will it improve the standard of living in this country? The evidence is all around us. The answer is no.

This is a strategy for larger corporate profits and a strategy for lower income for American workers and fewer jobs.

Let me show one additional chart that illustrates the problem quite graphically, I think. The blue line shows productivity in America. Productivity has increased. The red line shows household incomes. Regrettably, they are moving in opposite directions. Why?

The answer is that American workers cannot compete when those who head the multinational corporations get in an airplane and circle the globe to try to figure out where they can produce at the least cost to sell the products back into the best marketplace. And that is the disconnection we have with this trade agreement.

I could talk about the World Trade Organization and other elements of GATT. It is absurd for anyone to argue that the creation of a World Trade Organization does not impinge on our sovereignty. Of course it does. That is precisely why it was created. Of course it does.

I could talk about child-labor conditions: 200 million children working in the world—3-year-olds, 6-year-olds, 10-year-olds, 12-year-olds. It would break your heart to hear the facts. Children making carpets, cutting knots with knives. There was testimony before the Senate about someone in those factories who sees burnt fingers and wonders why, and then discovers 12-year-old kids using knives to cut knots on silk rugs are cutting their fingertips, and those who employ them use matchstick powder to burn in those fingertips to create scars so they can keep those kids working. It breaks your heart to see the working conditions around the world. Should we compete with that? Of course not. Does this prevent competition in those circumstances? Regrettably, no.

They chant "free market," like a mantra. It is as if they are beating cymbals and chanting over and over again: "Free market, free market, free market."

That is not what is important. Yes, let us have expanded opportunities. Yes, let us compete around the world. But let us make sure the rules are fair, and let us make sure the end result represents a better standard of living for American workers.

That is, by far, the most important of all the measurements: What happens to the standard of living for those in this country who produce, who risk their capital to keep jobs in this country and for those who work for them, who want a living wage and want a safe workplace. That is what is important.

I regret that this administration is supporting this GATT agreement because I feel so strongly it is bad for this country. President Clinton and Mickey Kantor are people who have had the guts to stand up to other nations in bilateral negotiations, such as those with Japan. They stood up and fought for us on grain problems with Canada. This administration has done things, when previous administrations had sat on their hands. I compliment this administration for that.

When the winds of change out there suggest the American people do not like the direction we are moving, you would think that this would be the time to assess what is going wrong. Why are incomes declining in America, and what can we do about it?

This kind of trade agreement, which asks American workers to compete against others around the world who are going to be paid 20 cents an hour, is a strategy for enhancing corporate profits and diminishing the importance of, and the ability to help families, that depend on American jobs.

Instead of having thoughtless discussions about trade where we put people into two camps—the free-trade camp that sees over the horizon and are the know-all, see-all wise folks; and the "isolationist xenophobic stooges" who cannot see anything, and are protectionists who want to put a wall around the country—I hope one of these days we can do better than that. That is thoughtless sloganeering and nonsense.

I do not want to put a wall around our country. I want goods to come into America and compete on a fair basis. The only caveat for me in the long term is that all of us should work toward establishing policies that will enhance the ability of American families and American people to find good work that pays good wages and enhances and improves their standard of living.

Frankly, the evidence is all around us, littering the floor of the Senate and the House from past trade debates. This trade strategy is wrong and it should not take a sea of red ink, our worst trade deficit in history this year and the transformation of America from the largest creditor nation in the world to the largest debtor nation in the world, to convince us of that.

Anyone who remains unconvinced has simply been reading the wrong information. My friend, Senator BROWN, from across the aisle, I understand, had said he previously was inclined to support GATT. But then he courageously was the only Member of the U.S. Senate who accepted a challenge by Ralph Nader to take a test of knowledge about GATT. So my friend, Senator BROWN from Colorado, apparently spent his Thanksgiving reading and studying GATT, and then took the test.

I am pleased to say he upheld the honor of the Senate and passed that test and apparently won $1,000 to be given to charity. But I think he is going to tell us what he told some folks yesterday. Upon reading this document, he concluded it is not good policy for this country. This is not about us versus them. It is not about Republicans versus Democrats. This is about change versus more of the same. And more of the same will hurt this country badly.

I hope the Senate will reject GATT and decide instead to expect, to demand, fundamental change in our trade strategy—not to close this country's borders, but to declare that there is an admission price to exercise the rights of the marketplace in a country like ours. And that admission price is that you must pay a living wage and play by the rules.

Mr. President, I yield back my time.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. PACKWOOD. Mr. President, I yield 15 minutes to the Senator from Colorado.

The PRESIDING OFFICER. The Senator from Colorado.

Mr. BROWN. Thank you, Mr. President. I want to thank the distinguished future chairman of the Finance Committee for the time. Many Members have come to the floor and expressed concerns about GATT or approval for GATT. Others have talked about whether or not they favor free trade or open trade. I favor free trade. I favor open trade. I am for lowering tariffs and eliminating quotas. I am for expanding the world's trading market. But, if you believe as I do and study the agreement, instead of being for GATT, you will be very concerned about it.

Let me be quite specific because much of the debate has been bumper-sticker debate, debate over whether you favor free trade or not, debate about whether U.S. sovereignty is infringed or not. These are not the issues. We must focus on the agreement itself. Let me be very specific.

GATT sets up an ineffective court system that will replace our ability to litigate many of these trade questions in U.S. courts. The dispute settlement body will establish a series of panels to rule on trade disputes. Unlike U.S. courts, the proceedings of the panels will be conducted in secret. No conflict-of-interest rules exist to ensure impartial panelists. Decisions will be rendered anonymously by unaccountable bureaucrats and the appeals process will not be subject to outside review.

Who in this Chamber believes we ought to have a court system that does not have the basic elements of procedural due process? GATT sets up a

court system without procedural safeguards to ensure due process. In effect, it establishes a trade legislative body with the right to rule on implementation of its own laws, unlike in the United States where we separate these functions into separate branches of government.

Please do not be mistaken, GATT's new WTO will legislate future trade policy. Does it force us to adopt their legislation? No, it does not. But can they influence and amend the agreements that we are involved in? Yes, they can.

The problem is not that we have set up an international system for legislating in this area. The problem is that we have set up a legislative system without fair representation. Under the new rules established under the GATT, we will have one vote out of all the member countries, currently expected to be at least 123, yet we will pay the greatest share of the bills. Nearly 25 percent of the cost could fall upon U.S. shoulders, and yet we will have less than 1 percent of the control of how the money is spent. Is that a problem?

Please look at the World Bank and the International Monetary Fund. During debate here in the Senate concerning more than a billion dollar increase in taxpayer funds to the World Bank, I challenged Members of this Senate to come forward and defend the way that the money of American taxpayers is spent. At the World Bank, according to articles published in prominent news sources, the average salary was $123,000 a year—that is right, you heard me correctly, an average salary; that includes janitors, service people, receptionists, nonskilled workers—an average salary that is roughly equivalent to a U.S. salary of $176,000 a year because the $123,000 average is tax free. Why do salaries get that way? Because those who pay the bill and those who decide the staffing are not the same.

Will that be a problem with the new GATT organization? Yes. It will create 50 new councils, committees, panels, and working groups. It is going to be a huge international bureaucracy. The United States will pay the bills and other countries will decide how it is run.

Lastly, it is a one-sided agreement. Anyone who thinks we are getting into an agreement that expands free trade has not read the text of the agreement itself. Let me repeat that, because it is absolutely true and I hope Members will focus on it. Anyone who thinks this is an agreement that expands free trade has not read it.

Why do I say that? It expands the openness of our markets but authorizes developing countries and the least developed countries to exempt themselves from those liberalizing effects, some for 5 years, some for 7 years, some for 8 years. The exemptions vary by agreement. But what this agreement does is open our market and allow the developing and least developed countries to keep theirs closed. Some will say, "Hank. Wait a minute. In 5 or 8 years that market will open, or in 10 years the market will open, or in some areas in 12 years it will open." If they say that they have not looked closely at the way the WTO will operate. Most of these agreements provide authority for the WTO to amend them. Could they clear the necessary procedural hurdles to amend them?

More than three-fourths of the votes in the WTO are in the Third World—more than three-fourths of the votes. Three-fourths is important because it is the majority needed to amend and interpret the agreements. With more than three-fourths of the votes in the WTO, the Third World's less developed countries can extend these exemptions ad infinitum. There is some language in the agreement that indicates that is a possibility.

What is the bottom line? The bottom line is we set up a court system without due process. We set up a trade legislating body without fair representation. I do not know what you would consider fair. But let me tell you, I do not think you will consider WTO fair. We have 1 vote out of 123, and we are going to pay 25 percent of the cost with less than 1 percent of the votes. In the United Nations at least we have a veto. In the IMF at least we have a weighted vote. In the WTO, we have no protection. We pay the bills and other members will determine the cost. It is completely a one-sided agreement.

Let me be specific because those are serious charges and they are ones that Members ought to be concerned about. In the court system that they set up—again it is called the dispute settlement body—a panel is appointed.

The ministerial conference will elect the director general, and the general council will substitute for the ministerial conference when it is not in session. The director general will help recruit, hire and employ the secretariat. The Third World controls the selection of the director general. That is not speculation. If all signatories join, the Third World will have 83 percent of the vote. You tell me who is going to control the director general. With 83 percent of the vote the Third World is going to control the director general. The director general handles the hiring of the secretariat and the supervisors. When you have a question that has to be interpreted, a litigation, in effect a court hearing, it is the secretariat that is hired by the director general controlled by Third World country members that will decide upon the experts to make decisions and recommendations in a trade dispute. Will these experts be weighted in favor of the Third World countries? You bet your life they will be.

From that pool of experts will be selected the three or more members that will be on the panel to settle the dispute. They decide it. Some will say that is OK. They have to be fair. Do they have to be fair? Do they have to have open hearings? No. They do not. They even render anonymous decisions.

Mr. President, the heart of the WTO will be a court system that does provide procedural due process safeguards. I hope the Members who are in favor of this will come to the floor and tell us why we should not expect to have due process in these hearings. Before Members vote, I hope they will ask themselves the same question.

We have talked about trade legislation. But let me simply mention this. The United States has one vote. The European Common Market has 16. Does anybody here think that is fair? If they think that is fair and they are going to vote for it, please come down and tell me why the United States gets 1 vote and the European Common Market gets 16. I want to hear why and so do the American people. If you like the WTO, tell me why it is fair that 18 countries with populations of under 1 million apiece will have more voting power than the United States and the European market combined.

Let me repeat that. Eighteen countries with a population less than half the size of California are going to have more voting power than all of the United States and the European Common Market combined. If you think that is fair, come down to the floor and tell me why you think so. Anyone who thinks this is about fairness and a valid legislative body to settle trade disputes has not read the legislation.

Mr. President, I have talked about it being a one-sided agreement. I want to be specific about that because I think that may be something that Members have not focused on. When I say it is a one-sided agreement, let me be specific. Some Members are from dairy States. I hope they will look at this. Under the GATT-WTO agreements, the European Union is allowed to spend $2.5 billion a year to subsidize the exports of 30 billion pounds of milk, $2.5 billion a year for EU subsidies for exported milk. Does the United States get to spend an equal amount or maybe a larger amount? No. Under the agreement we are limited to less than one-twentieth of the European Union's allocation.

Anyone who thinks this is a fair, balanced, open market agreement has not read it. The fact is, the United States was outtraded. When we are allowed to use one-twentieth of the resources that the European Economic Community is allowed, I do not think it is fair. If somebody does, come down and say it. If somebody thinks having a 20-to-1 advantage is fair, please come and talk about it. Go on the record, because it is not fair. It is not evenhanded, and it is not a good negotiation. Is that the only example? No.

Take a look at the agreement on trade-related aspects of intellectual property rights. We ought to respect property rights. People are proud of this agreement because it expands free trade and protects property rights. Read the agreement. We have 1 year to bring our intellectual property standards into line with the accord; 1 year. Is that the same for every other nation? No. Developing countries have 10 years. The least developed countries have 12. Let me repeat it. We have 1 year. They have 10 years. For 10 years they can violate those agreements and get away with it. We have signed an accord that recognizes their right to do so. Is that fair? Does anybody think that is fair? Will the advocates of this measure come to the floor and tell me. Is it fair for us to have 1 year and them to have 10 to 12 years? But the disparities do not end here. Because after they get through with 12 years of cheating on our patents—cheating and stealing which we will recognize as their right—after they get through with 12 years of doing that, they have the right to come back and amend the rules to continue. We will not have enough votes to stop them.

Let me follow up because it is important for Members to take a look at the exact specifics. In agriculture, if you are from an agriculture State, let us take a look at page 1366. Here is what you are going to find: Part 9, article 15: "Special differential treatment."

Those are not my words. Those are the words out of the agreement.

1. In keeping with the recognition that differential and more favourable treatment for developing country Members is an integral part of the negotiation, special and differential treatment in respect of commitments shall be provided as set out in the relevant provisions of this Agreement and embodied in the Schedules of concessions and commitments.

2. Developing country Members shall have the flexibility to implement reduction commitments over a period of up to 10 years. Least-developed country Members shall not be required to undertake reduction commitments.

It is right there. That is not fair trade. That is not evenhanded trade. We were out-traded. We opened up our markets and let them keep them closed. Moreover, remember the exemptions that are here do not necessarily run out because those who benefit from them can then amend the rules.

Page 1386, article 10, "Special and Differential Treatment."

This is the sanitary and phytosanitary agreement. It is an important agreement. It is what many of our constituents see as important because they believe it will give them protection in other nations similar to those required here and will establish a fair standard for trade with foreign countries. Read what those fair standards are.

Paragraph 3:

With a view to ensuring that developing country members are able to comply with the provisions of this agreement, the committee is enabled to grant such countries upon request specified time limited exemptions, in whole or in part, from the obligations under this agreement taking into account their financial and development needs.

Has anybody read it? The people who think it is so great, do they understand it is going to apply to us and not necessarily to the countries we sell to? Have they asked themselves who has the power to extend these exemptions? It is a body of which 83 percent could be developing Third World countries. In the current GATT, there are only 90 developing country members so far, well over three-fourths necessary for approval of rule changes and amendments. Is that out of line? Look at page 1438, Article 12, Special and Differential Treatment of Developing Country Members, 12–1:

Members shall provide differential and more favorable treatment to developing country members to this agreement through the following provisions, as well as throughout the relevant portions of other articles of the agreement.

It says "shall provide." That is under the technical barriers to trade. If you talk to Members who are advocates of this agreement, they will tell you how great this agreement is because the agreements on technical trade barriers are going to break down foreign trade barriers to our products.

Read the Agreement on Trade-Related Investment Measures on page 1449, Mr. President. And I can go on. But if Members are voting for this because they like free trade and want to open up foreign markets and think this is a way to do it, please read it and look at the votes that are in the WTO. If anybody thinks this is fair, please come down and say so. I want to know why it is fair that Americans ought to subject their market to foreign trade without having the same access to other markets.

Some of you may know America is a great inventive and creative country. Part of that is because of our patent procedures that protect our inventive creations. Under U.S. law, we currently have 17-years of patent protection from the time a patent is approved. But the implementing legislation will change it to 20 years from the time the patent application is filed. The net effect according to the U.S. biotechnology industry is that this legislation will reduce U.S. patent protection from 17 to 10 years because of the lengthy time required for patent approval. Who will that favor? Not the United States. A patent-producing country, an invention-producing country, will be at an enormous disadvantage. When you look at Japan, who leases our patents, you can see this industry will have an enormous pickup because they will have to pay for that patent for a period of a decade less.

Mr. President, I ask unanimous consent for 1 additional minute.

Mr. PACKWOOD. I yield 1 additional minute to the Senator.

Mr. BROWN. Mr. President, before Members cast a final vote, please read what others have said about it. Le Monde, an influential French newspaper, commented:

A great power like the United States has now less power to impose its views on other countries because it has agreed to the following rules of the multilateral game.

Mr. President, that is what the French have said. From the European Union, Sir Leon Brittan says this:

A major trading power such as the United States now has fewer levers with which to impose its views on other countries because it has formally agreed to be more mindful of the rules of the multilateral game. This has always been an objective.

The bottom line is this: We have pretty good leverage now. We have not done with it what we ought to. But this agreement has one big impact: It creates unfair trading rules and it changes the rules of the game so the United States loses its leverage and power to open up markets. If you favor free markets, as I do, and expanded trade, please read the agreement. I think you will find that rather than opening up the market, this cements the closure of some and creates loopholes for others. What it says to the rest of the world is that you can have access to our market without us having access to yours. That does not expand or help free trade, it hurts it.

Mr. MOYNIHAN. Mr. President, may I say for the record—and if anyone disagrees, we can discuss it later—that the United States currently pays 14.6 percent of the GATT budget, that being our estimated portion of world trade. This year, the U.S. contribution is $8.8 million. Anticipating the establishment of the WTO, the President's budget for fiscal year 1995 will request $9.1 million. That is an increase of $300,000. I ask my friend from Oregon, when is the last time he has heard $300,000 debated on the Senate floor?

Mr. PACKWOOD. I thought my good friend from New York misspoke himself when he said "million." That is an asterisk in the budget.

Mr. MOYNIHAN. That is true. I thank my friend.

The most distinguished chairman of the Committee on Foreign Relations has asked for 10 minutes to address the Senate on this subject. I am honored to yield to Senator PELL.

The PRESIDING OFFICER. The Senator from Rhode Island [Mr. PELL] is recognized.

Mr. PELL. Mr. President, I address the Senate today regarding the legislation implementing the international trade negotiations we know as the Uruguay round of GATT. Our actions here represent the culmination of over 8 years of work started by President

Reagan, continued under President Bush, and reaching conclusion under President Clinton. The process has been long and tedious but the result well worth the effort. With the accomplishments of the Uruguay round, trade in the international arena will be freer of the artificial barriers which stifle economic interaction and opportunity, especially for the United States, the most powerful, dynamic, and diverse economy in the world. This means growth for all involved but especially for the American economy which historically has demonstrated and will continue to demonstrate its ability to compete and win in a marketplace free of trade restrictions.

At the outset, let me state that I am a supporter of GATT. I firmly believe that the United States stands to benefit from liberalized trade in general and from the provisions of the Uruguay round in particular. We have the resources, the knowledge, the quality of labor, the infrastructure, the market, and the leverage to compete on an unparalleled basis with any country in the world. Lowering barriers to our products will mean that we will be able to gain access to new markets that were previously closed to us as well as pave the way for our developing and tapping the markets of the future.

The benefits of GATT are broad. The Council of Economic Advisers has estimated that U.S. annual income will increase somewhere between $100 billion to $200 billion over the next 10 years, an increase of 1.5 to 3 percent of our gross domestic product. Conservative estimates of 300,000 to 700,000 new jobs have been projected as a result of the Uruguay round. A global reduction in tariffs averaging 38 percent—or some $750 billion—will mean that consumers will see lower prices for the products they purchase. Enhanced protection of intellectual property and trademarks—crucial for American growth industries—will be put into place, protecting everything from computer software, to movies and records, to information and news services. Agriculture subsides and protectionism, long entrenched as unassailable in many countries throughout the world are finally being reduced. Service industries, such as banking and insurance, will be able to take the first steps toward global expansion. Clearly, the achievements of the Uruguay round present a golden opportunity for the world economy, and for the United States as its economic leader, to step forward into the reality of the modern marketplace.

But the Uruguay round of GATT has not been without its detractors. Indeed, much has been said since it was signed by 123 countries in Marrakesh, Morocco last April. We still hear the cry today that we are moving too rapidly in approving this agreement and that more hearings are required and that the so-called fast track process used in considering GATT is unusual, tainted, and even unconstitutional. These arguments, forwarded by the opponents of GATT, simply do not hold up under scrutiny. Other detractors claim that the agreement threatens U.S. sovereignty and will bust the budget. These arguments likewise simply do not merit the concern that they are accorded.

As I mentioned earlier, the Uruguay round has been in the works for 8 years now, having begun in Punte del Este, Uruguay in 1986. Moreover, the Uruguay round is just an extension of an ongoing process of lowering world trade barriers that began in 1947 and has been through seven successive rounds of negotiations. In most cases, matters that could not be resolved in previous negotiation sessions are taken up in the next one. So to say that somehow we are considering something only a few months old is not accurate.

Regarding the fast-track process under which we are considering GATT, this process has been used for years and indeed Congress specifically authorized its use for the Uruguay round. And while it has been termed "fast track" that is somewhat of a misnomer. "Fast track" simply means that once legislation is submitted to Congress it cannot be amended or filibustered indefinitely. The reason for this is common sense. If amendments were allowed by any of the 535 members of Congress, the carefully crafted compromises reached in the extensive and contentious negotiations with 123 other countries would be unravelled in a minute. It is impossible to imagine the world community ever coming together to agree to meaningful trade reform if each legislator in every country had the ability to amend any portion of the entire agreement. Recognizing this, we have authorized the President to negotiate as best he can and if we do not like the results, we can reject them by a simple majority vote. That is precisely what we will have an opportunity to do when we vote on the Agreement at the conclusion of this debate.

The concern about GATT's potential effect on U.S. sovereignty is one that warrants careful review and indeed this issue was considered in a hearing on this matter this summer before the Committee on Foreign Relations. During that hearing, we explored whether or not the World Trade Organization [WTO], as set up in the agreement to monitor international trade disputes, in any way posed a serious threat to the ability of the United States to make or carry out its domestic laws. As a result of the hearing, it is my own opinion, and the conclusion of the committee as well, that the WTO does not pose a serious threat to U.S. sovereignty.

The WTO does not affect Congress's sole right to change U.S. law nor does it create a new powerful international organization. The WTO reaffirms current GATT practice of making decisions by consensus. In the rare instances that the WTO would vote, each country would have one vote, just as they do under the GATT today. The voting procedures in the WTO would actually strengthen the hand of the United States and weaken the power of smaller countries by requiring a higher majority for decisions than is currently required in the GATT. Even if every country voted against the United States, they could not affect the substantive rights and obligations of the United States which can only be changed with the express approval of the United States.

Since that time, an even further safeguard against threats to U.S. sovereignty has been secured at the request of Senator DOLE providing for a review panel of former U.S. appellate judges which would scrutinize WTO decisions to insure against U.S. bias. Whether or not this additional safeguard is completely necessary is uncertain but if it serves to alleviate any misgivings on the part of those in the United States that somehow our domestic laws are threatened, then it serves a good purpose. Nonetheless, I believe that there is now even further reason to be satisfied that the WTO does not significantly threaten U.S. sovereignty.

Finally, the argument that GATT busts the budget by cutting tariff revenues is an interesting argument against the agreement, especially since it is being forwarded by those who often advocate the virtues of tax cuts, which is precisely what a tariff reduction is. But for those who are concerned, it is likely that the U.S. Treasury will be better off as a result of the agreement since it is estimated that the increased revenues that will result from the increased economic activity stemming from the agreement will far surpass the lost tariff revenues.

Nevertheless, to accommodate the concern for the lost tariff revenues, budget offsets have been found to make up for the reductions. I commend the Finance Committee for working to come up with the financing package to satisfy the requirements of the Budget Act and believe that this obstacle to the passage of GATT has been appropriately addressed.

In the end, the debate on GATT has been long, contentious, and fraught with the familiar fears voiced in the last half century about liberalized trade. Those fears have proven to be unfounded and the benefits of freer trade have become apparent. Now, as the world moves inexorably toward greater connectedness and economic interdependence, we must likewise adapt the rules of world trade to reflect this reality. The achievements of the Uruguay round of GATT are significant

steps toward during that end and it is an opportunity that we, as the world's economic leader, cannot afford to pass up.

I commend the Reagan, Bush, and Clinton administrations for demonstrating great leadership and skill in negotiating this complicated and difficult agreement. As I recall, Secretary Christopher in his confirmation hearing pledged to make U.S. economic interests a forefront of U.S. foreign policy and I believe the Clinton administration has fulfilled that commitment in completing the Uruguay round negotiations, NAFTA and in promoting free trade in the Asia Pacific region. I also commend the majority leader, Senator MITCHELL, and the chairman of the Finance Committee, Senator MOYNIHAN for their leadership in developing the implementing legislation for GATT and seeing that this vitally important agreement did not fall by the wayside during this turbulent year of electoral politics.

I urge the Senate to support passage of GATT and in the process complete the process began 8 years ago to secure the benefits of freer trade for the United States and the world.

The PRESIDING OFFICER (Mr. MATHEWS). The Senator from New York.

Mr. MOYNIHAN. Mr. President, may I express my personal appreciation to the distinguished chairman of the Committee on Foreign Relations for his generous remarks about the Finance Committee and to say, more importantly, his firm assertion that the issues of sovereignty have been addressed by the Committee on Foreign Relations, and the committee is satisfied, and the Senator is here to represent it, and that I think is an important fact in the debate.

Mr. PELL. The Senator is correct. As he will recall, we had that hearing on this and we discussed it, and there is no question but that the committee as a whole approved it.

Mr. MOYNIHAN. I thank the Chair.

The PRESIDING OFFICER. The Senator is recognized.

Mr. BROWN. Mr. President, I ask unanimous consent that a copy of the "GATT/World Trade Organization Challenge," of which I was the sole participant, be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

GATT/WORLD TRADE ORGANIZATION CHALLENGE, NOV. 28, 1994—SOLE CHALLENGER: SEN. HANK BROWN OF COLORADO

1. Q. Which political body shall determine the annual share of the World Trade Organization's (WTO) operating expenses owned by the United States?

a. The House Ways & Means Committee.

b. The Senate Finance Committee.

c. The Office of Management and Budget.

d. The General Council of the World Trade Organization.

e. Other.

A. The General Council of the World Trade Organization. Article VII.

2. Q. The world trade pact now before Congress is to be administered by a new international body, the World Trade Organization that will be located in Geneva, Switzerland. The United States will have one vote in the WTO. Will the United States also have:

a. A veto as it does in the Security Counsel of the United Nations.

b. A weighted vote, as it does at the International Monetary Fund and the World Bank?

c. None of the above.

A. None of the above. At the WTO, it is one-nation-one vote, no veto. Article IX.

3. Q. Under the WTO, tribunals comprised of three trade experts drawn from a roster of practicing trade lawyers, scholars and trade officials would hear challenges against countries' laws as violating the WTO rules. Once these panelists have ruled, their decisions are enforceable through trade sanctions. Considering the sizable influence these panelists will have one each WTO Member Nation's domestic laws, what are the WTO conflict of interest provisions to ensure there are not economic or other conflicts?

A. There is no prohibition for panelists to be conducting their private careers simultaneous to service on a GATT tribunal. Annex 2, Article 8.

4. The U.S. court system provides for certain due process protections. For instance, all court documents are available to the public and press, as are hearings on cases. The procedural rules of the World Trade Organization prompted 50 newspaper publishers and heads of journalistic societies to write a protest letter to President Clinton in September 1994.

When a U.S. law is challenged at the World Trade Organization, which of the following groups from the United States have the right to attend the deliberations or obtain the documents of the Dispute Settlement Board?

a. The U.S. media.

b. The U.S. public.

c. The affected U.S. companies.

d. The affected U.S. workers.

e. State Attorneys General.

f. None of the above.

A. None of the above. All deliberations shall be confidential. Annex 2, Article 14.

5. Q. The final decisions of the World Trade Organization's dispute tribunals take effect automatically unless what percentage of the WTO nations, that are members, reject the finding?

A. One hundred percent, including the winning plaintiff nation. Annex 2, Article 16.

6. Q. The United States has long used access to its markets to enforce a variety of human rights, national security, environmental and health laws. For instance, we have banned imports from countries that violate human rights or products that are not safe. As well, under trade laws such as one called Section 301, we prohibit a country from sending goods to our markets on favorable terms if it does not open its market to our goods. Under the WTO, could the U.S. continue to use these unilateral trade measures against WTO member nations?

A. No. Under Article 23 of the WTO's Dispute Settlement Agreement, the U.S. must use the WTO's Geneva tribunals to resolve matters with WTO member nations for all issues covered by the WTO and all issues that touch on the expectations of other members under the WTO even if there are not specific WTO rules covering these matters. Annex 2, Article 23.

7. Q. Would the WTO require the United States to accept imported food that does not conform to our existing standards?

A. Yes. The WTO requires Members to accept imported food if the exporting country shows that its different standards are "equivalent" in meeting our domestic level of protection. Unfortunately, the term equivalent is not defined and similar provisions in the 1988 U.S.-Canada Free Trade Agreement allowed circumvention of U.S. food safety standards, including meat inspection. Agreement on the Application of Sanitary and Phytosanitary Measures, Article 4.

8. Q. Under the WTO Agreement on Technical Barriers to Trade, all WTO Members are required to base their domestic standards on international standards that are now complete or whose completion is imminent. Technical standards refer to any non-food product standard such as consumer product safety standards, bans on hazardous substances such as asbestos and environmental laws such as the Clean Air Act. the WTO would allow countries to avoid the requirement of international standards only for three reasons. That the international standard does not provide sufficient consumer health or safety or environmental protection is not one of the exceptions. Please name three reasons.

A. Fundamental technological problems.

Fundamental climatic problems.

Fundamental geographic problems. Agreement on Technical Barriers to Trade, Article 2.

9. Q. Under the current GATT, if a dispute panel rules against a U.S. federal or state law, the decision of the panel and any later decision to impose sanctions could only be made if the United States agreed. Under the proposed WTO, the de facto veto has been eliminated. Thus, should the WTO rule against a U.S. law, the United States would have only three options in response. What are those three options?

A. a. Eliminate or alter the U.S. law to conform with the tribunal's ruling.

b. Pay compensation to the winning country.

c. Face trade sanctions from the winning country. Annex 2, Article 22.

10. Q. The Clinton Administration has stated that the United States would have no obligation under the World Trade Organization to make U.S. laws meet WTO regulations. If the United States joins the WTO, would have the legal obligation to conform its law with the hundreds of pages of Uruguay Round rules?

A. Yes. The agreement's exact language is: "Members shall ensure conformity of their laws, regulations and Administrative procedures" with all of the annexed Uruguay Round Agreements (i.e. all of the substantive rules.) Article XVI.

11. Q. The North American Free Trade Agreement (NAFTA) clearly exempted actions to be taken under three major environmental treaties: The Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal; the Montreal Protocol on Substances that Deplete the Ozone Layer; and The United Nations Convention on International Trade in Endangered Species of Wild Fauna and Flora.

Which of these environmental treaties are exempted under GATT/WTO?

A. None. Article XVI.

12. Q. Is it true or false that a ban by any WTO member nation on the trade of goods produced by prison labor and by child labor are illegal under GATT/WTO?

A. False. Only bans on trade of goods produced by prison labor are illegal under GATT/WTO. Foreign trade of goods made by child labor is GATT/WTO legal. The General

Agreement on Tariffs and Trade, which came into force on January 1, 1948, allows contracting parties to bar imports of goods produced with prison labor. (Includes amendments to original GATT text.) Article XX (e). Article 16, 1, of the Uruguay Round of GATT incorporates this and other provisions by reference.

Mr. MOYNIHAN. Mr. President, I will suggest the absence of a quorum with the time to be equally divided and controlled.

Mr. HOLLINGS. Mr. President, I will use some of our time.

Mr. MOYNIHAN. Sure.

Mr. President, the Senator from South Carolina has control of his own time.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. HOLLINGS. Mr. President, let me first thank the distinguished Senator from Colorado for the deliberate and very thorough approach that he used in analyzing this GATT agreement. It is a discombobulated, tricky mess.

I am an old-time lawyer. That is how I made a living and am able to afford serving in the U.S. Senate. Business clients would come in and present a contract to you and say "HOLLINGS, what about this?" I would have to analyze the good and the bad and then come up and help the client make a judgment.

Now here what we have, as pointed out by the Senator from Colorado, Senator BROWN, is the worst kind of contract that you could possibly imagine. People do not really believe that officials representing American interests can enter into such a contract.

Let me tell you how we have been taken over. What happened is, Mr. President, we started at the end of World War II, the only manufacturer, the only industrial complex left standing after the war. Wisely, we determined to subsidize, lead, and support the development of capitalism in Europe and particularly in the Pacific rim.

And in those days we had a number of aid programs, Public Law 480 in agriculture, and the tax breaks for industry.

Industry resisted it at first, going abroad. They did not want to travel all the way to Japan—they did not speak the language—or travel to places like Korea, and certainly not to China or Taiwan and Hong Kong and Singapore and other countries. In Europe, the Marshall plan took root, fortunately, and no one regrets it. It was a visionary policy to rebuild the devastation wrought by war.

But the fallout from this visionary foreign policy has become a disaster to our economic policy. I have the greatest respect for the chairman of the Foreign Relations Committee, but, this is not foreign policy anymore; this is economic policy. That is the problem. We cannot get that mindset changed.

We cannot get it changed in the administration at the White House. We tried to with NAFTA. And we will go at length to show that, yes, that sucking sound is there and it has been muffled here because we do not have time for debate. But if they want to get into it, I would be delighted to give them the facts, the numbers, because we are losing to Mexico. We are losing jobs.

But what has developed is what you might call a trade war. And, Mr. President, the enemy is not Japan. I have been in enough debates around here. Well, they say, "Oh, you are just bashing Japan. You are just from a little textile State and you want to bash Japan." I do not bash Japan. I am bashing Washington. As the nationals found out that they could produce more economically by placing their production offshore, they became multinationals. How do they do it?

They said that they had a hearing in the Foreign Relations Committee. We had eight hearings. And here is the booklet. I hope they will read this very pro and con balanced set of hearings, commended by all the colleagues who attended. It was shown there in the hearings that for a typical American industry 30 percent of its sales volume is taken up by labor costs, and, Mr. President, you can save 20 percent of that cost or volume of labor by moving your production offshore to the Pacific rim, or to any of these low-wage countries.

Now, what has happened with the fall of the wall is that you have 4 billion people coming into the capitalist work force, 4 billion workers making 2 to 3 percent of the American wage. You can get 50 Chinese for one American worker, you can get 27 Filipinos for one American worker, you can get 37 Indonesians for one American worker. And so you can go to any of these countries, and save 20 percent by moving offshore.

If you have $500 million in sales, 20 percent savings means you could make or increase your before-tax profit 100 million bucks by getting out of the country, moving your production offshore. You can keep your regular sales force here in this country, the executive branch, and sit up there on the 50th floor of the Chase Building in New York and spin out all of this nonsense about free trade, free trade, free trade, free trade, while they are gutting the work force. The manufacturing base in the United States has gone, since 1987, from 26 percent of the work force to 16 percent.

You can make $100 million by moving your production offshore or you can go broke by staying in the United States. That is the trade policy that this Government has. That is why I call the Government the enemy in this trade war. We have seen the enemy and it is us. It is common sense.

In one of the finest news articles you have ever seen, Mr. President—it was just a few days before the election—the USA Today said: "Americans in a Stoning Mood." And there was one sentence that summed it all up. It was a medical technician in New Hampshire who said, "It used to be that you could work hard, keep your nose clean, and you could always count on your job. But today, you could lose your job at any time."

And the reason for it is us right here.

So you start with a program of trying to bring about capitalism, which has worked 40 years ago, but now gobbles us up. Now that the nationals became multinationls, espoused free trade, knowing all along that they were moving out of the United States where they do not have to worry about Social Security and Medicare, clean air and clean water and safe working place and safe machinery, and plant closing notices and parental leave, and you do not have to worry about that Congress raising your cost of doing business. You can go to Taiwan, Hong Kong, Singapore, in Malaysia, in India—where you are protected from Congressional regulation.

So if they come, these folks making big money, the multinationals, they go to their banks who are financing them and say, "We must support free trade."

If you ever run for President, they will invite you to the council on foreign relations. And when you come at their invitation, what they will do is they want you to swear on the alter of free trade, almighty faith for ever and ever you are a free trader, you are a free trader. "Yes, I am for free trade; free trade." That is all they want. You can get their contributions, you can get their support. I have been there. I know what I am talking about.

And so you have then the multinational corporations and the multinational banks. And then they finance all the consultants and the think tanks. And you can spew in any kind of statistical material you want to these economists and they will support free trade with paid studies. And that is the kind of statistical bunk we have to hear at every one of these GATT rounds about the thousands of jobs and $1700 a year we are going to make and everybody is going to get rich in America.

Mr. President, I feel like that boxer who was obviously losing. By the 10th round, he was staggering, barely able to stand. He fell back on his stool in the corner. And, of course, his second was patting him on the face. "He hasn't put a glove on you. He hasn't put a glove on you." And he blinks and barely opens his eyes. He says, "'Well, watch that referee, because somebody is knocking the hell out of me."

I mean, they are telling us we are getting rich, while we are losing jobs. Do not come around here and tell me

they are interested in jobs, manufacturing and economic strength of America. They are debilitating and destroying it here today and tomorrow in the National Government. That is blind to what is occurring in the global marketplace.

Because after they get the multinationals, the multinational banks, the consultants, the think tanks—and we have had them all come in and testify; we have had them at our hearings—then they go to the retailers. And that is a story that has already been told by the Senator from North Dakota and the Senator from Ohio. Compare prices of foreign-made and U.S.-made blouses. I have done it myself. Go down to Bloomingdale's: One made in the United States, one made in Taiwan—both $32. Go over to Herman's, get a catching glove: One made in Korea, one made in Michigan—both $42.

When Nike moved offshore, the cost of shoes did not go down. The profits rose. That is what happened. They can take what is made in the United States and what is made more cheaply offshore and make a bigger profit. I remember one of the debates. I went down and got the annual report of the Washington Post, that crowd—they made $1 billion on advertising. I think this was about 1987 or 1989, and 80 percent of their profits, $800 million of that profit, was from retail advertising. "Whose bread I eat, his song I sing." Do not tell me about this business crowd and something being free. There is nothing free in business. This is not foreign policy, this is business policy.

The other governments and the competition have made it their business to play by business rules, and we sit around here with the golden rule. Do as we say: Free trade, free trade, free trade. We have been trying for 50 years, and you have seen the deficits in the balance of trade. Not "exports, exports, exports." We have a deficit in exports; whereas our exports are totally overcome by imports. And then it came to mind, when the distinguished Senator from Colorado was pointing out how that agreement—how they could sell out, because all of these particular trade representatives go back downtown and represent the other side after leaving the Government. There are 68,000 lawyers, Mr. President, in Washington, DC. Yes, there are a few lawyers here in the Congress who can read contracts, thank heaven. But if you can find me one of those 68,000 lawyers downtown who is against GATT, I will jump off the Capitol Dome. Come on. They all have their hands in the till here. They do not care about jobs. They have clients. They are making a fortune.

How are they going to create jobs under this GATT? Here, not only are we opening our markets, we are exposing our basic laws to challenge. Suppose you do not like the Glass-Steagall Act. And it has really kept the integrity of banking since the 1930's, but you want to change that particular act. So all you do is get one of those Washington teams of lawyers to get a little small country and get together with some money, and that little small country petitions GATT, the World Trade Organization, to say that Glass-Steagall—governing the requirements on banking in the United States—is not the least trade restrictive way of regulating financing. And you can abolish your law. No, this implementing bill does not change the law, but they have a way to repeal it over in Geneva. You obey or you pay.

Or you can get another group of lawyers to go after your investment laws. Suppose you had trouble with securities, the SEC, the Investment Act of 1940, and the requirements thereunder with regard to foreign investments. You can go down and get a bunch of Washington lawyers and get after that one, too. You can go after the environmental laws—and they have.

The CAFE standards have been found, by GATT, as GATT illegal right this minute. But we vetoed it, virtually, because we do not have to go along. We virtually have a veto under the current GATT. The current GATT found GATT-illegal our tuna-dolphin law, our embargo against the Mexican tuna coming up where they do not obey the dolphin laws; they find it illegal, but we have vetoed it. Now we lose our veto.

I was thinking of those lawyers. It just got me because I have to cover one other topic. I see some others here and we want to hear from them.

Mr. President, you have supporting the GATT the Washington newspapers, the think tanks, the Washington lawyers, the retailers, the multinational banks, the multinational corporations, and the Fortune 500. And why has that "GATT now" crowd been running those ads? None other than Robert Reich, the Secretary of Labor, on page 95 of his book, "The Work of Nations," says between 1975 and 1990, the Fortune 500's have not created one net new job in the United States. And since that time—I have the record here—they have invested over $50 billion overseas. And, to bring it totally up to date, we have another particular page here out of the Business Week article where they talk about the spending binge being global. The spending binge.

Here are all the poor working people who never heard of any spending binge. But I read from the November 14 Business Week. It says, "As the global upturn widens, the investment spree among U.S. companies is spreading to their overseas operations."

Can these Senators listen? Not American investment. Oh, they are making money, all right. And they are investing it, all right. And they are investing it overseas.

According to a recent Commerce Department survey, "Foreign affiliates of the United States firms plan to hike their capital outlays by 8 percent this year to about $69 billion, the largest increase since 1990."

The last sentence of the Business Week article concludes: "Capital expenditures by U.S. affiliates in Mexico are set to jump an eye-popping 40 percent."

There you go; that is it. What are we talking about? We are talking about jobs. And we are getting the rich richer and we are getting the poor poorer. Why? Time Magazine had a cover article here, "Boom for Whom?" in late October. Sure, it is a boom for this crowd, the "GATT now" group, the Fortune 500 crowd, the newspaper editorial crowd, the multinational crowd, the multinational bank crowd, and the retailers returning all over the place trying to increase their profits.

But there are a few of us lawyers here who can read contracts, as Senator BROWN from Colorado has. And we know what is good for the country. I do not have to serve a corporation or individual—I serve them both. I can tell you categorically we have had an uphill fight. We had it in 1979. We had the same rhetoric as the Senator from North Dakota has pointed out, reading it to you. We have had our own Finance Committee in 1986 saying: "The Tokyo round was a bust." It was not working. It did not give the economic boom and all that kind of stuff that they continue to talk about now. It is ruining the country. They want to take a bleeding wound and turn it into a hemorrhage. It will ruin the middle class. And that is my point.

The crowd that came to Washington to support and prosper the middle class is destroying the middle class. That is exactly what this article says here, "Boom for Whom?" Regarding service jobs, it says: "The people cannot lead a middle-class life in the service jobs that are left over." That is the state of America, and that is the point of the recent election. But voters are just as angry still at Republicans as they are at Democrats. It just was their time at bat. If they do not understand it, some on the other side of the aisle, we will get rid of them in 1996. I will borrow their TV ads, change the words around from Democrat to Republican, and we will run them out of town. Because we are both guilty. We have not faced reality. We have been selling the industrial and manufacturing and economic backbone of America down the tubes and we are destroying the middle class that supported this democracy. That is why we have the inner-city crime. That is why we have the latchkey children. That is why we have the drugs.

The GATT proponents give all those statistics. The trouble with this crowd is that the statistics that they give measure activities, not the impact on

the social order. When we had Hurricane Hugo, then we had to rebuild all the places down there in my back yard, and that increased the GNP—the carpenters, the timber, the materials, and the renovation. Likewise, you ironically get an increase in GNP when we have an explosion of health costs. We build more hospitals. The same thing when we get drugs, when we get crime. We build more prisons.

The cost of drugs and crimes and natural disasters—floods and all—is 7.5 percent of the GNP, if they want to give figures. That is just activity. It is not good activity, not favorable. What we have to do is assume the responsibility of not being number crunchers around here, and putting the people first and not the money first. That is the whole point here.

I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time? The Senator from New York.

Mr. MOYNIHAN. Mr. President, I have the honor to yield 10 minutes to the distinguished, formidable, and indomitable Senator from Maryland, Senator MIKULSKI.

The PRESIDING OFFICER. The Senator from Maryland [Ms. MIKULSKI] is recognized.

Ms. MIKULSKI. Thank you very much, Mr. President. I thank the chairman of the Finance Committee for yielding time and congratulate him on his recent victory.

Mr. President, I have spent my entire life trying to save jobs, save communities, and help people who are trying to help themselves. I have spoken many times on this floor about generating jobs, jobs in my own home State and jobs in the United States of America.

For my own home State right now, the key to the future is export jobs, and that is why I have decided to vote for GATT. The old ways are not working. The world is changing and a new economy is about to be born. I do not want the United States of America to be left behind.

As a member of the Appropriations Committee, I have been trying to do my part to make public investments, to generate jobs in aerospace, in high-speed ground transportation, in new environmental technologies that the world desperately needs. I have been a leader trying to urge our Government to work on core technologies, to focus on strategic research to lead to new ideas and new products.

I want to see the United States of America win not only the Nobel Prizes but also win new markets. I want the United States of America to reap the rewards of those great new American ideas. For years, I have worked with my colleagues to protect American inventions against countries that deny adequate intellectual property rights. I want good American know-how protected and the jobs that it creates to stay right here in the United States of America.

I want to see us develop new American products, restore our Yankee-trader tradition and export those products around the world. We have done a great job exporting democracy and now I want us to export products that are made in the United States of America. The future of the United States of America does lie in high technology. Even so-called low-technology manufacturing is now going high technology.

But in order to develop export technologies, we need to have export markets, and GATT gives us the chance to do that. GATT will eliminate or drastically reduce foreign tariffs on leading products that Maryland does export. It means that my own State can sell more abroad and that it will also protect ideas and inventions that are being developed in the United States of America in the fields of life science, space and transportation technology, and in the environment. That means more jobs for us.

In this debate, I have heard from the working people of Maryland. Some fear for their jobs and others believe that GATT will help them and their children have good jobs now and in the future. The working people of Maryland are on both sides of this debate, and I want to be clear. I hear them and I acknowledge what they are saying. I acknowledge their fears. I acknowledge their hopes. I acknowledge their dreams, and I also acknowledge the fact that they worry about their very lives being downsized.

Make no mistake about it, I am a blue-collar Senator. My heart and soul lies with blue-collar America. I spent most of my life in a blue-collar neighborhood. My mother and father owned a neighborhood grocery store. When Bethlehem Steel went on strike, my dad gave those workers credit. My career and public service is one of deep commitment to working-class people. And in the last decade, working people have faced the loss of jobs, lower wages and a reduced standard of living, and a shrinking manufacturing base, everything that the critics say. But voting against GATT will not save those jobs or bring those jobs back. If I thought that is what would be the solution, I would support it. But right now, we know that the world will either pass us by or we will be part of the new economic relationships.

Much has been said about the loss of sovereignty. If we do not support GATT, all we are going to be is hollowed out as our jobs flee to other nations. The globalization of labor makes that a reality. Demography is destiny: 1.2 billion in China. So, therefore, we need to have relationships with these countries.

I have just gotten back from an East Asian trip focusing on trade and national security, traveling on a bipartisan basis with JOHN GLENN, SAM NUNN, DAVE PRYOR, KIT BOND, and BILL COHEN. It was clear—clear—that they want to do business with the United States of America, and why? Because we are the best of the best. That is why I believe that we can play a role and save manufacturing jobs if we support GATT.

I have been listening to America's working people, and I know their fears personally. But I also know that the old ways are not working; that the current rules of international trade are holding America back. All America needs is a fair chance and a level playing field to compete globally.

The Uruguay round is not perfect, and this implementing bill is not perfect. But the bottom line for me is that foreign tariffs will be cut by one-third for manufactured products, and also it will cut tariffs and reduce trade barriers for many of Maryland's top export industries. So Maryland will be able to export more, manufacture more, and create jobs.

What it does mean is that there will also be more jobs for the Port of Baltimore. It means more and more work out of our great American minds, world-class research and development, and those issues will not be stolen to reap profits for foreign countries.

My State of Maryland is ready, willing, and able to compete for jobs. In 1989, one out of every six manufacturing jobs in Maryland was tied to exports. And in the early 1990's, Maryland's exports grew at twice the national average. This huge increase was led by a 65-percent rise in products manufactured in Maryland being exported and sold overseas. For Maryland, these exports mean jobs today, and it also means more products that Maryland can export, more products that Maryland can manufacture and, thus, more jobs in the State of Maryland.

I believe that with this new century coming, we must engage, have constructive engagement with the rest of the world. We cannot close our doors or close our minds to the reality of what is happening. I believe that if we pass GATT, yes, it does present problems, but the problems will be far more significant and the world will truly pass us by if we do not vote for GATT.

For those emerging nations, if we do not vote for GATT now, when they continue to become export trading nations as well—or import—they are going to hold it against us. They are going to say, "Where were you in the 1990's when we could have all come together?"

The issues today are less now of strategic alliances and more of economic alliances. Our President went to APEC. We now see EC. I voted against NAFTA, and yet based on what I am seeing now, NAFTA maybe was not as bad as I had anticipated.

Now on the brink of this new day, I believe that we must seize the day and vote for GATT. So I am voting for GATT to generate more exports, to create more jobs in my own State of Maryland and in the United States of America, and I am voting for GATT because I believe America's future depends upon it.

Mr. President, I yield the floor and any such time as I might have left.

Mr. MOYNIHAN. Mr. President, may I congratulate the Senator from Maryland on a powerful, persuasive case spoken from the point of view of those workers at Sparrows Point and those workers at Bethlehem Steel, those people in Maryland who earn income from exports. Just to give one quick example from a New York firm, George Fisher, the head of Kodak, who recently, apropos the Senator's tour of South Asia on trade matters, said: "There are 4 billion people in the world who have never snapped a picture and we have plans for them."

I thank the Senator.

Mr. President, I see our distinguished President pro tempore is here.

Mr. PACKWOOD. I have talked with the distinguished President pro tempore, Mr. President, and he indicated to me that he would kindly allow Senator BURNS to go first. So I yield 15 minutes to the Senator from Montana.

The PRESIDING OFFICER. The Senator from Montana [Mr. BURNS], is recognized.

Mr. BURNS. I thank the Chair. I thank my friend from Oregon.

Mr. President, as we rise today to make note of our intentions on this important piece of legislation, of course, I am not real sure of the time that I have in this body. This is probably one of the toughest votes that I have ever had to deal with. So we do not take this vote very lightly because it does have ramifications and it will have great affect all the way around the world. We could take a look at the world economy. But yet it all boils down to what happens locally. How does it affect our States and the people who live in those States and what our own local situation is? So I guess, even though having great international implications, it still goes back to the speaker who was Speaker of the House from Massachusetts when Tip O'Neill said all politics—and of course, all situations—are local.

I am a free trader, and have been in the private sector all my life. But we all were operating out of almost the same rule book, not entirely. When I look at this and see who is making the rules and those rules are coming from outside the framework in which we are going to have to operate, it brings up great questions.

So I intend to vote no on the GATT agreement, and I also intend to vote against the budget waiver because I remember those of us who came off of campaign trails just not quite a month ago, and we said we were going to vote for less Government and more jobs. This is not one of those vehicles which lets us accomplish that end. The real debate boils down to winners and losers.

This agreement by some has been called a win-win situation for Americans. Free trade is good policy for consumers in many industries that will benefit from new trade rules. But again when we go back, consumers will win because tariffs on imports will be lowered. I am not real sure, however, that those who import are willing to pass along those savings to the consumer. Nobody has shown me where they intend to do that. I think it is something—and I do not want to be antibusiness—where somebody gets a product and he can put it on the market, and the market is driven by supply and demand. But I am not real sure that the money saved in tariffs will be passed along to the consumer even in a competitive environment. I know whenever this Congress repealed the wool incentive, the wool incentive was financed. The incentive was given to our sheep producers of America, and was financed by tariffs collected on wool imported into this country.

If we repealed part of that, we only repealed part of the law and that was the part when we give incentives to the sheepmen. We did not repeal the tariff because this Government kept the $120 million out of the $400 million that they collected in tariffs. This Government kept the $120 million for itself and diverted those funds into other funds for which the law in the first place was never intended.

So will corporations take the same attitude? I do not know. We have known how to deal with tariffs. But sometimes I doubt if we really know how to deal with nontariff demand items. Tariffs and unfair subsidies in other countries will be cut allowing our agriculture maybe to be a winner. And I am not sure yet. But it looks good to many people.

The United States is the largest exporter. It has already been said. Our GNP is tied to exports. We make and grow a lot of products. We sell computers, electronics, steel, automobiles, cattle, corn, and wheat. Our financial institutions and entertainment industry are second to none, and our economy thrives for the most part on exports. But nobody has talked about the losers in this deal, and they are out there. Not everybody will win. This free trade deal will not be fair for everybody. We have to slow down and take a look at who will be negatively affected in our own neighborhoods. Who will see the benefits of GATT? And when I see how this GATT will affect our daily lives with the people in my home State, I see the negatives of GATT fall disproportionately on States like Montana.

I will give you a good reason for that. Let us look at the agreement and how it will affect our State. We are a rural State. We do not have big cities. We do not have a large manufacturing base. We are dependent on natural resource industries like agriculture, mining, timber. And, yes, we do have a very solid and new and thriving high-technology community that is just now getting off the ground.

So I want to know how GATT is going to be worked for the working men and women of my State, the men and women who carry the lunchbox, who pull the shifts, and they are just not a faceless crowd out there. They are people, folks. They own homes. They would like to drive a new pickup every couple of years. They like to educate their kids. They want a part of the American dream too. They are not in the position to make the policy that will govern this, the guys who cut the timber, the guys that run the family farm, and the miners who provide our minerals, our trace minerals for, yes, American industry. They are the ones who stand to lose the most. They are the ones that are going to have to compete in the world market. They compete with the Third World worker who scratches for meager wages. I think it forces our workers to compete with developing countries. Montana workers will be in direct competition with the Argentine farmers, Chilean miners, and the Indonesian loggers. Those decisions are not even made by those miners or those loggers or those farmers. Those decisions will be made by the governments of those respective countries.

So we cannot allow somebody else to pull the rug and make the decision who wins and who loses and pull the rug from our people here in the United States. Some folks would call that protectionist. I say it is trying in the best way in the world in a democracy in a free society to argue for my side and to sell my product. I do not want to be excluded by price alone.

Agriculture was excluded in the GATT for the first time. That is good news for producers. But a closer look will tell us that the changes are not even across the board. The time schedule for cutting subsidies lowering the tariffs is different for developing countries than it is for developed countries. That is not a level playing field. America is lucky in that we are very lucky that we can feed ourselves, and we feed a lot of people around the world.

We do not have to worry about food shortages in this country, and we should not trade away our food production in exchange for gains in the service industries and, again, this agreement is not fair.

We have a longer border with Canada than any other State in the Union. I have seen firsthand how a free trade agreement really works, not just on paper, but in reality. We have had to

deal with a dispute with Canada not on tariff problems but on nontariff barriers. Now we are told that GATT is not NAFTA, and I agree; it is bigger, with more members, more bureaucracy, more pages.

So in Montana, our ranchers and grain growers are struggling to compete with Canadian imports coming over the border. It is not a question of efficiency. It is about nontariff barriers, such as tests for bluetongue, keeping our feeder cattle from going north of the border. I probably would have no problem—we have just one border crossing up at Sunburst, MT, where you have 250 loads of cattle a day, and these ain't bobtail loads, folks; these are semis, 250 loads a day coming across into this country. Yet, we cannot take advantage of a $6 to an $8 per hundredweight market better than ours on feeder cattle going to the north to be fed in southern Alberta. Why? Not because of tariffs, but because of a nontariff barrier that they called for animal health reasons, and the principal thing called bluetongue.

So with all of this, we see nontariff barriers going up. We can deal with and negotiate tariffs. But we have a hard time negotiating on the nontariff barriers. I have heard some say this helps us to deal even with the nontariff deals, because it will bring it into a situation. Montana was the largest buyer of Canadian wheat last year. We could not get them to the table. Had it been producer to producer, we probably would have worked it out. When a country such as Canada markets their wheat through a national wheat pool and we here market our commodity by individual farmers and they have to compete against the Canadian Government, this is not fair because that was a Government decision, not a producer decision. It was a Government decision.

Let us talk a little about the WTO. It creates a bureaucracy of historic proportions to oversee international trade. Future WTO dispute settlements may intrude upon areas of policy previously outside of the scope of the U.S. multilateral trade relations. The bottom line is that the WTO could put our Federal and State laws at risk. There will be those of the legal community that say that is not a risk. Already, our State and Federal laws and regulations on the environment, product standards, testing, labeling, and certification have been identified as potential violations.

The dispute settlement panel does not stand up under scrutiny. They will say that NAFTA and the Canadian Free-Trade Agreement is not a good example to compare it to, but we do not have anything else to compare it to. Anytime that you can dump all of your excess commodity on the market in less than 6 months, and it takes a year and a half to get people to the table, let me tell you, your market has been disrupted, eroded, and it cannot be put back together. In fact, it went so far on the Canadian border that we had farmers put their trucks around the elevators so they could not accept any more Canadian grain in Montana. It was a very volatile and hostile type of situation that existed just on the Canadian border in my State of Montana.

There is a lot of power in the WTO, delegated to them by unelected and faceless bureaucrats, most of them put in place by foreigners.

So when we lose a case, we have to follow the ruling. The same teeth that can be used to force our trading partners to follow the rules will be used against us, and I guess that is a fair statement if you really believe in what the WTO stands for. So we will be forced to pay the price, either through compliance, compensation, or retaliation.

Does it seem fair to you, or anybody else, that we are going to pay 25 percent of the cost of the WTO and we get less than 1 percent of the representation of the vote on that panel? I think we can negotiate a better deal. The European Economic Community has 17 votes within that union, and that union is being put together why? For a trading block, just like our North American Free-Trade Agreement. But under NAFTA, a trading block would have 3 votes. But 17 would be true with the European Economic Community.

If you say each State or each part of the Union would have a vote, that would probably give us 50, and we could probably deal with something like that. I do not think that is exactly fair, either.

Nobody knows for sure what will happen when the WTO is unleashed. But is it a risk we can take? Sure we can get out of it, like we can also get out of any of the international organizations we belong to. Unfortunately, we get sucked into these groups to never escape. The only certainty is that our portion of the tab always increases and the number of bureaucrats grows. Meanwhile, we do not have the influence in proportion to our trading size. The United States will have one vote and no veto. This is an unprecedented attempt to put us on the same level as every other member. This is just one more step in the direction of a world government.

Another glaring problem is the implementing legislation and the financing provisions. This is not the place for surprises and sweet deals for special interests. And Congress and the President cannot ignore the budget rules by waiving the costs of implementing the deal. It has been called a tax cut for consumers. That is banking on retailers to cut prices to reflect the drop in tariffs. Short of that, it is a loss of revenue and an attempt to break the budget, putting American taxpayers on the short end of the stick.

In conclusion, I do not support this trade agreement. After looking at it from every angle I am absolutely positive that this is not a fair trade agreement for everyone. I cannot ignore problems with the World Trade Organization, or flaws with the financing provisions and implementing legislation. And I look at the lessons Montana has learned from our previous trade agreement with Canada and Mexico which show that agreements that look good on paper, do not always work well in reality.

I am a free-trader, but I cannot support a free trade agreement that is not fair. GATT is not fair.

The PRESIDING OFFICER. Who yields time?

Mr. MOYNIHAN. Mr. President, I do not know that the Senator from South Carolina is present. I know if he were, he would wish to yield time to the distinguished President pro tempore. I will take the prerogative of yielding such time as he may desire, the time to come from the Senator from South Carolina.

The PRESIDING OFFICER (Mr. GRAHAM). The Senator from West Virginia is recognized on the time of the Senator from South Carolina.

Mr. BYRD. Mr. President, with great respect to the very distinguished chairman of the Finance Committee, and to the very able ranking member of the Finance Committee, I make these comments, and in the spirit of total friendship, admiration, and high regard. I am opposed to the executive agreement on the GATT Uruguay round, and I shall shortly raise a budget point of order against it, even though the waiver of the point of order will not be voted on until the very end of the running of time on tomorrow and just prior to the final vote.

While I support efforts to reduce tariffs the world over, I believe that the Uruguay round is of such stature, such scope, and such permanence that it should have been considered as a treaty, requiring a supermajority vote in the United States Senate, rather than as an executive agreement requiring a mere majority in both Houses of Congress.

I do not take the position that it is constitutionally wrong or that it violates the Constitution not to have this far-reaching matter presented to the Senate in the form of a treaty, but as an executive agreement.

I do take the position that it should have been presented as a treaty because of its scope, its dignity, its stature, its far-reaching importance, and I realize that, more and more, we are getting away from the use of treaties in dealing with such vital matters and going more and more to the executive agreement instrument. I feel that, with each time this is done, it becomes easier on the next occasion to proceed by way of an executive agreement rather

than by the instrument that is set forth in Article II, section 2 of the U.S. Constitution, the language dealing with the treaty process.

Inevitably, over a period of time, the result of this growing trend will be a reading out or an amending, in effect, of the treaty process as set forth in the Constitution.

The messenger in the third part of King Henry VI stated it well when he said:

But Hercules himself must yield to odds;
And many strokes, though with a little ax,
Hew down and fell the hardest-timber'd oak.

So, Mr. President, that hardest-timber'd oak of the treaty process as set forth in Article II, section 2 of the Constitution will eventually be hewed down and will have been felled by the many deviations from the use of that constitutional provision.

In any event, action on the Uruguay agreement should be delayed until next year. The Members of a new Congress, not the lame-duck Members of the old Congress, should have the opportunity to fully study the agreement and make their decisions with more attention to the details of this far-reaching agreement.

People of this country are entitled to render a verdict on the judgment of lame-duck Members as expressed by their votes on this matter. Those lame-duck Members, those who will have retired, those who will have been defeated at the polls—and I say this with the highest respect for any and all of those Members—they will have had a free ride; they will not have to answer for their vote to the judgment bar of the people at the next election.

I regret that. I regret that this vital issue is to be decided in this Congress.

I also regret the rape of the legislative process by the fast-track procedures which will govern the decision by the Senate on this agreement. "Fast track" should never be imposed on a matter which can be so destructive of Senate prerogatives, so destructive of States' rights, and so destructive of the sovereignty of the people of this Republic.

"Fast track" is nothing more than a quick shuffle designed to ram through this agreement without much scrutiny. Therefore, Mr. President, here we are at this late hour, faced with an upcoming vote on a matter about which we know little and under such restrictions as will limit debate and tie our legislative hands with respect to amendments, leaving us only with a choice of voting this important legislation up or down.

The President is not to be blamed for this fast track. The Senate itself must bear the blame. It was the Senate that voted to bind itself, hands and feet, with cords of steel that shut out amendments. It was the Senate that voted to impose the gag rule upon itself and to limit free and open debate to a paltry 20 hours concerning a matter about which vote we may have ample decades during which to regret.

I wrote to the President earlier this year and urged that he not present this agreement to the Senate this year, that he delay the presentation until next year so as to give Senators more time to consider, and so as to give the Members of the 104th Congress, who will be fully responsible under the new leadership in the Senate and in the House, to answer to the bar of judgment of the people come the next election.

The President wrote back and in a very nice way declined to follow my request.

It is my belief that the approval mechanism that ought to have been used, especially for the WTO portion of the GATT agreement, is the constitutional procedure for treaty ratification. In fact, the introductory note in the final text of the Uruguay agreement declares as follows: "By signing this Final Act at the Marrakech Ministerial Meeting, the participants will establish the texts"—this is the final act from which I now read—"the participants will establish the texts set out in the Annexes, in accordance with international treaty practice."

Hence, it is evident that the Uruguay Round's Final Act contemplated action thereon as a treaty.

The new World Trade Organization would have the authority to set parameters reaching far beyond trade law. Thus, the ability of Congress and the ability of State legislatures to legislate in the best interests of the United States, and the States, respectively, will for the first time in our history be subjected to the review of secret panels comprised of citizens of other nations. Amazingly, the World Trade Organization can require that the United States and other members conform domestic laws to WTO rules.

For example, laws imposing an asbestos ban would not be allowed unless they employ means that are the "least trade restrictive" alternatives. U.S. laws and State laws in many areas must comport first with the WTO's trade rules, or such laws can be challenged as an "illegal trade barrier" by other countries. Federal and State laws dealing with toxics and hazardous waste, consumer protection, recycling and waste reduction, pesticides and food safety, energy conservation, wildlife protection, and natural resource and wilderness protection, would all be vulnerable to WTO challenge. The new GATT would prevent countries from rejecting products based on how they are made; for example, with child labor or with ozone depleting chemical processes.

There is no doubt that State as well as Federal law would be affected. Article 3 of the agreement says so in plain language.

All of this means that we can only maintain standards that are consistent with the terms of the agreement—and here it is, 2,000 pages of it—and they must be "least trade restrictive," regardless of political feasibility. A wholesale circumvention of many of our domestic laws is, therefore, invited.

Now I ask the question: Who shall be the umpire or referee when U.S., State, municipal, or local laws and regulations are challenged by other members of the World Trade Organization?

Under the agreement, a Dispute Settlement Body [DSB] shall have the authority to establish panels.

A standing Appellate Body shall hear appeals from panel cases. The functions of panels would be to examine any matter referred to the DSB by the complaining party and stand in judgment on claims against the U.S. by any GATT member.

There is no outside appeal, no external standing review body. None. The proceedings of the appellate body shall be confidential and final.

Where a dispute panel or the appellate body concludes that U.S. law, regulation or administrative procedure is inconsistent with a covered agreement, the WTO shall recommend that the member concerned bring the measure into conformity with the covered agreement.

Mr. President, I am opposed to the prospect of creating a new international institution which is fundamentally antidemocratic closed to the parties unless they are invited and closed to the participation of the people of the world.

Mr. President, the Long Parliament in England abolished the Star Chamber in 1641, which by means of secret trials and arbitrary judgments, had suppressed the opponents of Charles I, who later paid with his life on January 30, 1649. I should think that every Senator—this Senator does—would object to this new type of Star Chamber which will be installed with the approval of the Uruguay agreements and which will, by arbitrary and secret meetings, render judgments and impose sanctions against members whose laws, regulations, and administrative procedures are not in conformity with the rules and regulations of the World Trade Organization.

Beyond the delicate issue of the political accountability of foreign nationals ruling on the legality of U.S. laws lies perhaps even greater concern for states. Georgetown University Law Professor Robert Stumberg, in a report prepared for the Center for Policy Alternatives, has identified 90 statutes in California alone that are likely to be subject to WTO challenge.

If a foreign nation wins a challenge to any United States law, State or Federal, and the United States declines to revise or preempt the law, or otherwise

deprive the law of its effect, the foreign country would be free to impose countervailing sanctions including fines against the particular offending U.S. industry or any other—not just the offending industry, but any other U.S. industry or sector.

This could amount in effect to a secret foreign panel's levying taxes on the American people as a punishment for not altering U.S. law to a complaining party's liking. Think of that! Observe how we worry and scurry and wrangle in this body whenever a tax increase is even discussed, even mentioned, even whispered; and yet, here we are ready to roll over and grant a secret board, a secret body, a secret panel anonymous and secret powers to fine U.S. taxpayers if we do not rewrite U.S. law to suit the World Trade Organization. Talk about taxation without representation—and we once fought a revolution over that principle—here it is in spades!

Mr. President, doubt not that the sanctions imposed by the WTO have teeth—and claws. What should be very plain to us here is that the new rules provide for cross-sectoral sanctions should the United States not make the change called for by the GATT dispute resolution panel. Thus, sanctions could be imposed on the telecommunications industry for failure to comply with a GATT ruling on fisheries or automobiles. This possibility of cross-sectoral retaliation is likely to pose enormous difficulties for States and likely to provide perverse incentives for foreign nations to seek sanctions strategically.

If a State chose not to alter a measure found by the WTO to be GATT-illegal, the U.S. Trade Representative could choose to bring an action against the State in a Federal court, even if Congress had chosen to allow the state's measure to remain in effect and to accept trade sanctions on behalf of the entire Nation rather than preempt the offending State law. So there we have it. So much for Federalism. So much for State rights. So much for State legislators and Governors. Just leave everything for the WTO and the exalted trade representative to decide.

Thus, even a blind man can see that this agreement involves a substantial shift of control over each of the fifty States from Congress to the executive branch and to foreign nations.

Mr. President, the Administration is quick to say that WTO dispute settlement panels will have no power to change U.S. laws and that only Congress can do that. Well, that is true. And every schoolboy and schoolgirl in this country knows that. We already know that.

The administration seeks to tamp down the concerns of Members of Congress by saying, "Well, the WTO will not have any power to change U.S. laws."

Of course it will not have the power to change U.S. laws. Every history book in this country worthy of the name will tell us that. I learned that 60 years ago. It is nothing new. But the effect of the sanctions that can be applied by the WTO will be strong enough leverage to force U.S. and State laws to be changed to bring them into conformity with the WTO rulings.

This would put the domestic laws passed by a duly elected U.S. Congress and by elected State and local governments at risk to unelected, unaccountable, unsympathetic, foreign bureaucrats.

The agreement presented for Senate approval includes provisions that are take it all or leave it. Article 16 provides that a member state cannot have any reservations to the WTO agreement. Swallow it whole. Further, future amendments to the agreement can be made by a majority of the GATT membership, without any further consideration by this body. The U.S. can vote against such amendments, which might be adverse to our interests, be out-voted, and we have no choice but to swallow them whole.

So, Mr. President, here in my hand is the implementing legislation. You do not see what you get. You do not see what you get. We will have one opportunity tomorrow evening to vote up or down on this implementing legislation. After which, the 124 members of the World Trade Organization can vote to adopt amendments by a three-fourths majority, and in some instances by a two-thirds majority, and whether the United States likes it or not, it can be outvoted, as it is so often outvoted in the United Nations by the same nations that will be in the WTO.

And so, Senators, once we pass this bill, that is it. We have had it. We have had our chance and that is all. But then these agreements, 2,000 pages of them, can be amended by a three-fourths vote in the WTO. And we can like it or we can lump it. We can get out of the WTO. But if we remain in, we are going to live by those amendments which are not included in this document.

So we ought to remember that. It is the last word for us until after the passage of the first 5 years. But this is the last word for now. That is it. Then turn it over to the WTO to interpret and to amend. And how many votes do we have? One. A country of 260 million people with one vote, and 18 of the other members of this WTO will each have a million people or less. And the vote of each member, large or small, will be equal to the vote of the United States. So, you are not buying exactly what you see here. You are seeing the tip of the iceberg in this document of 2,000 pages, but that can be changed and will be—long after we have cast our vote tomorrow evening—changed by the amendment process set forth in the agreement.

The Senate is the only body that represents the States qua States, and it is the only body in which every State, from the smallest to the largest, is guaranteed equal representation. It is the only national body in which all members are politically accountable to all the voters in their respective states. We should not vote for this kettle of brew which will diminish the sovereignty of the states we represent.

The distinguished minority leader has expressed concern and reservations about the provisions of this agreement. He has made attempts to secure an agreement from the President to fix the potential damage and excesses that can be brought by the World Trade Organization, upon the U.S., our laws, and regulations in many fields. I have conferred with Mr. DOLE about this proposed fix—which can only be passed by the next Congress, and I must reluctantly conclude that the World Trade Organization cannot be fixed by the Dole proposal.

Mr. DOLE has proposed legislation which would establish a new American Commission to monitor the decisions of the Dispute Settlement Panels in the WTO. If the Commission found over the course of 5 years that the WTO dispute settlement tribunals have violated the appropriate standards of review, any Senator could introduce a privileged resolution calling on the President to withdraw from the World Trade Organization.

First, Mr. President, how will the Commission get the full record of the Dispute Settlement Bodies when the U.S. is committed in this agreement and committed by virtue of our adoption of this implementing legislation—committed to keeping the deliberations of such bodies "confidential?"

The documents, the deliberations, what is said in these panels, will be secret. And even the complaining party and the offending party will not be able to appear before those boards in the decisionmaking process unless they are invited.

So there is the fundamental question, I say, to those who are looking to the Dole proposition as cover. There is the fundamental question of the secret records and the Star Chamber proceedings that will frustrate the five judges on the commission that the minority leader wants to create.

Now, Mr. President, we have in the specifics of the procedures and standards established by the GATT for the World Trade Organization the elevation of trade as the top priority over all other values. If environmental laws get in the way of trade, they must fall. If consumer protection gets in the way, if standards of innumerable kinds, get in the way of trade, they go. Humane methods of trapping tuna, in order to protect dolphins go out the window. Flipper loses. Rigid pesticide controls which make products more expensive

are GATT illegal. Out they go. Child labor laws restricting trade are illegal. Who cares? Only trade matters.

What happens when our laws are declared a violation of GATT? The Administration would like us to accept the proposition that no U.S. laws are wiped out here, and technically they are not. What will happen is that other member nations, perhaps prodded, or even dominated by one or a group of multinational corporations, will bring a complaint against the U.S. before the WTO, and a Dispute Panel could rule in secret against a U.S. law, as being GATT illegal. The room for pernicious manufactured claims should be obvious to all of us. This puts great pressure on us to change our laws.

Now, the question is what remedy does the proposal of Mr. Dole's offer for this situation.

After three determinations by the Commission under the standards set forth in the minority leader's agreement a resolution can be introduced with a privileged status, calling for the President to withdraw from the WTO. How hard will that be? Both Houses of Congress must pass the resolution and then be able to muster a two-thirds majority to override a Presidential veto. As my colleagues well know, this is a very difficult undertaking, and we would be faced with all the arguments about how wonderful free trade is on balance, despite a raft of adverse decisions. What is the likelihood that this fix is really a fix? When is a fix not a fix? When it is not a fix. It will be nearly impossible to get out of the organization, and so this high improbability of using the so-called fix should not dominate the vote on the agreement which this implementing legislation approves. If the WTO agreement is flawed, and I say it is very seriously flawed, then we ought not get into it in the first place.

Senators with ambitious ideas about health, environmental, labor, food labeling, or other standards would be well advised to check the standards of international bodies approved by the WTO before bothering to introduce legislation. One could imagine that rubber stamps embossed with the words "GATT illegal" will become popular in the White House.

So, Mr. President, the minority leader's proposal is well-intended, but in effect it is a fig leaf, a giant fig leaf pasted onto a Tyranosaurous about to ransack its way around decades of statutes and standards on a multitude of policy matters.

I do not have the agreement just in front of me. I had it. Here it is.

It is the fix. The Federal commission of five judges will be appointed and they will determine whether or not the proceedings in back of a decision imposing sanctions on the Federal Government or upon State governments or upon municipalities in this country or the local governments—they will decide whether or not the proceedings have been fair, whether or not they have been adopted according to proper procedure. But how are they going to get the documents? How are they going to get the materials from the panels, from the disputes board, from the appellate body within the WTO? Those proceedings are to be kept secret and anyone who says anything in those proceedings is to remain anonymous. The statements are to be anonymous.

How is this Federal commission, this new commission of five judges, to be able to make its decisions when it has no way of reaching into the panel, the secret panel, no way of reaching into the dispute settlement board, no way of reaching into the appellate body in the WTO and extracting those documents, those secret records upon which to make a judgment? This is a fig leaf.

And then, after 5 years, if the reports that are sent up by the President indicate that some of the decisions have not been fair, any member, they tell us, any member can offer a resolution. And we are promised that those resolutions will be expedited in the procedures in the House and Senate. But that legislation is to be put off until next year. But everybody here knows the barriers that one has to run when it comes to getting a resolution adopted.

First it has to go to committees. There is no assurance the committee will report it out unless those expedited proceedings mandate such. Then it has to pass both bodies of Congress. Then it has to go to the President's desk and he can veto it. So where does it leave us?

Mr. President, Benjamin Franklin told the story of how, upon his seventh birthday, many of his friends gave him several copper pennies. And so off to the shop that sold children's toys he went, and on the way, he heard a friend blowing a whistle which he had bought. Franklin so liked the sound of this whistle that he went into the shop and voluntarily plunked down all of his pennies for a whistle. He then went around his house blowing it proudly, while his brothers and sisters and cousins were all irritated by it and impressed upon him the fact that he had paid too much for his whistle. They told him that he paid four times the value of the whistle and listed to him all of the other things that he could have bought instead. Ben was so vexed that he broke out in tears. The reflection of his folly gave him more chagrin than the whistle gave him pleasure.

Franklin later said that he had learned a lesson by this experience. The lesson was that he had paid too much for his whistle.

I say to the distinguished minority leader and others who have concocted this massive fig leaf that they have paid too much for their whistle, and those Senators who are depending upon the covering of that fig leaf to shield them from the ire of the voters come the next election or at some future election will learn that they too, have paid too much for their whistle.

The people on November the 8th sent us a message. They said that they are tired of the arrogance of power that abounds in this city. They told us that they want to be a part of the decisionmaking process. Here we are about to decide on legislation of extreme significance—not only in matters of employment, jobs and basic pocketbook issues that affect every American, but also concerning the bedrock, fundamental sovereignty of our Federal and State Governments. And to add insult to the injury, the decision is being made by a lame duck Congress.

Why do we not ever get it in this town? An agreement that should consume weeks of debate is going to be implemented with only 20 hours of discussion. This is not just another ordinary trade agreement. What is the rush? If the American people are outraged over the arrogance and the posturing of their elected officials, we have only to look at the present situation to understand why.

We rail against budget deficits. Yet, here we are about to waive the Budget Act to increase the deficit so that the GATT agreement can go forward. In a few months, we will hear the sound and fury of those in this body and the other body crying for a balanced budget amendment: Give us a balanced budget amendment to the Constitution, they will say, let us all remember the Budget Act waiver vote as we craft our lofty speeches for that coming debate.

Mr. President, do the American people buy this fig leaf? Do the American people buy this whistle? Let us take a look at a poll conducted by Daniel Yankelovich on November 23 through 27.

Question: The American public and GATT. Do you favor or oppose passing GATT?

Fifty-one percent oppose; 33 percent favor; 16 percent not sure.

Second question: Budget waiver. If GATT were enacted, it would increase the Federal budget deficit. Current law requires revenue increases to offset those losses. The Senate can waive that law with 60 votes. Is it appropriate or inappropriate for Congress to waive the law—that will be done tomorrow night—to waive the law so that GATT can be enacted?

Sixty-seven percent of the people answered inappropriate; 20 percent answered that it is appropriate; 13 percent, not sure.

The next question: Some people argue that GATT should be voted upon by the new Congress that was elected in November and not the old Congress which includes about 100 Members who were defeated or are retiring. Who

should vote on GATT, the 103d Congress or the 104th?

Sixty-three percent say the new Congress; 29 percent say the old Congress; 8 percent not sure.

Fourth question: WTO, World Trade Organization, and U.S. law. Do you think the World Trade Organization should be able to override the laws of member nations, such as the United States?

Seventy-two percent said no; 17 percent said yes; 11 percent said not sure.

So here we are on this chart—the American people—here is how they feel about it. They think this question should be put off until the 104th Congress.

We owe it to the American people to put this decision off until the newly-elected Congress is in place. We owe it to the American people to more carefully study this mammoth bill and ponder its consequences. We ought to heed the people's election message that was spoken to us in the loudest, and most profound way, rather than be so presumptuous as to turn a deaf ear to their collective voices?

In closing, Mr. President, let us review for a brief few seconds a few words from the Book of Genesis. God created Adam and Eve and put them in a garden of bliss and happiness—eternal happiness. He instructed them not to eat of the tree of knowledge of good and evil or, he said, "you will surely die." But the serpent got to the woman and said, "You will not surely die." Adam and Eve ate of the tree of the knowledge of good and evil, and then they saw that they had sinned.

What did they do? They sewed together fig leaves and created for themselves aprons. And then in the cool of the day, they heard the voice of the Lord God walking in the garden, and they hid among the other trees of the garden. And God said: "Adam, where art thou? Adam, where art thou?"

Mr. President, the people who are reflected on this chart are saying, "Senator, where art thou? Where art thou on the budget waiver? Where art thou?"

And in the days to come, they will say, "Where wert thou? Where were you? Where were you when you voted to make Uncle Sam cry uncle to GATT? Where were you when this monstrous bill was passed after only 20 hours of debate without an amendment? Where were you when this new world organization was given the power to force changes in State and Federal law? Where were you on this legislation that will shift millions of additional jobs overseas to the developing countries, that will cause multinationals to go overseas more and more and more? Where were you when you had the opportunity to say no? Where were you when you voted to increase the budget deficit by $14.5 billion? Where were you, Senator?" Where were you? Where were you? And you, and you, and you?

Mr. President, my vote will be to delay this matter until next year. How do I do it? I vote against the budget waiver, and thus sustain this point of order. It is a legitimate point of order, and it is in accordance with the agreement that we reached at the budget summit in 1990 when we said that such decreases in revenues should be offset.

I will make the point of order and do make it now, that the pending bill, H.R. 5110 violates section 23 of House Concurrent Resolution 218, the concurrent resolution on the budget for fiscal year 1995.

I thank Mr. HOLLINGS. I thank Mr. MOYNIHAN and Mr. PACKWOOD.

And I thank the Chair.

The PRESIDING OFFICER. The Senator from New York.

Mr. MOYNIHAN. Mr. President, thanking the distinguished President pro tempore for his thoughtful, gracious remarks as ever, even so, pursuant to section 904 of the Congressional Budget Act of 1974, I move to waive titles III and IV of the Congressional Budget Act, and I further move to waive section 23 of House Concurrent Resolution 218, the concurrent resolution on the budget for fiscal year 1995 as permitted by subsection 3 of that provision.

The PRESIDING OFFICER. Pursuant to title 19 U.S.C. section 2191(g)23, debate on the motion to waive the Budget Act, further consideration of H.R. 5110 is limited to 1 hour to be equally divided and controlled by the Senator who made the motion and the majority manager of the bill. In the event the majority manager supports the motion, the time in opposition to the motion is controlled by the minority leader or his designee.

ORDER OF PROCEDURE

Mr. MOYNIHAN. Mr. President, in respect to that specific matter, since the vote on the budget waiver will not occur until the expiration of the 20 hours of debate, and acknowledging that Senators may discuss the waiver at any time and may wish to do so during this debate, I ask unanimous consent that the 1 hour of debate allocated for consideration of the motion by the distinguished President pro tempore to waive be vitiated.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. MOYNIHAN. I thank the Chair.

The PRESIDING OFFICER. Who yields time?

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. PACKWOOD. Mr. President, I yield 8 minutes to the Senator from South Carolina.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. THURMOND. Mr. President, I rise today to support the motion made by my good friend from West Virginia, Senator ROBERT BYRD, that this bill violates the concurrent resolution on the budget for fiscal years 1995 through 1999.

The legislation that is currently before the Senate, H.R. 5110, the Uruguay Round Agreements Act, has many weaknesses. One of the most severe problems with this agreement relates to its funding. As we know, the Budget Enforcement Act of 1990 created the pay-as-you-go budgeting system, requiring that direct spending or revenue legislation not add to the deficit. This budgeting procedure was implemented to help our country to balance its budget and reduce our national debt. The concurrent resolution on the budget contains an enforcement provision to the pay-as-you-go system. Unfortunately, GATT violates pay-as-you-go rules.

Estimates by the Congressional Budget Office indicate that the passage of GATT will result in $43 billion in lost revenues. According to an analysis of this bill by the Joint Committee on Taxation, revenue offsets total less than $12 billion. A $31 billion shortfall results, not covered by budget cuts or revenue increases, thus adding to the budget deficit and our national debt.

Mr. President, the $12 billion in revenues that are included in the funding mechanisms of this bill are basically gimmicks and tricks. Funding proposals totaling over $3.5 billion relate to compliance and timing. However, such provisions do not add to total revenues, only change when the revenues are collected. We are asked to pay for GATT by requiring newborn infants to have a Social Security card to reduce tax fraud; eliminating the 4 percent minimum interest rate on savings bonds; and instituting voluntary withholding of taxes on unemployment compensation and other Federal payments to individuals.

Another funding provision concerns the Pension Benefit Guaranty Corporation. The implementing legislation contains an extensive 106-page rewrite of Federal law governing pension plan funding and benefits. The Retirement Protection Act has not been given adequate consideration by any Senate committee not by the full Senate. The inclusion of such a comprehensive measure in trade legislation, subject to fast track limitations, is inappropriate.

Mr. President, waiving the budget rules for any purpose is a serious proposition given the huge deficits and debt of our government. In the 103d Congress, budget waivers have been proposed 35 times. In only four instances has the Senate passed such a waiver. I urge the Senate to not add to the deficit with this vote. There is sufficient time to properly budget for GATT in the next budget resolution, if that is

the will of the Congress. I will not vote to waive the budget enforcement provisions and encourage my colleagues take that position.

Finally, Mr. President, the legislation addresses an area of great concern to many Americans. The Pioneer Preferences licenses provision is included in the GATT implementing legislation. This section sells the rights for cellular telephone licenses at a reduced rate. It has been estimated that the Federal Government could sell these licenses for $2 billion more than provided for in this legislation. Why is Congress being asked to waive the budget when $2 billion more could have been raised to help pay for GATT. This provision should not be included in this trade bill.

Mr. President, regardless to one's position on the merits of the trade provisions of this bill, there is adequate reason to not support the legislation based on the fiscal provisions of the measure. The American people spoke loud and clear in the last election. They want a smaller government and a government that stays within its budget. The consideration of this bill, at this time, under the budget arrangement is contrary to the expectation of the citizens of this Nation. Let us begin now to say not to further deficits and increased debt. Let us stand firm on the principle some have supported throughout this Congress. The enforcement provisions of the Budget Act and the budget resolution should not be disregarded. Again, I urge my colleagues to vote no on the waiver of the budget point of order.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. HOLLINGS. I yield 15 minutes to the distinguished Senator from Nebraska.

The PRESIDING OFFICER. The Senator from Nebraska is recognized for 15 minutes.

Mr. EXON. I thank my friend and colleague, the chairman of the Commerce Committee, Senator HOLLINGS. I would like to ask certain questions. Unfortunately, Senator MOYNIHAN has had to leave the floor. There may be others on the floor who could answer these questions. Some of my concerns were best highlighted by the excellent remarks and presentation made by the President pro tempore of the Senate, our distinguished colleague from West Virginia, Senator BYRD. I want to compliment him on his usual excellent presentation. He went right to the heart of the problem. I have not made up my mind for sure how I am going to vote on several of the votes that are going to take place. But I do want to compliment him for bringing up one of the many concerns that I have about the new World Trade Organization that we are going to be asked to vote on, and certainly aside from everything else a key vote obviously will be a vote on the waiver of the budget requirement that he properly within his rights brought up, with regard to the breaking of the budget on the approval, if that is what the Senate body as a whole is to do.

I would like, though, to ask Senator BYRD about some of the testimony that was received—and I have a record of it here—in the Commerce Committee, initiated by Senator HOLLINGS, and of which I was pleased to be a part. There were several questions of the balanced panels that were brought before that committee for the pros and cons on the matter. I, too, asked several questions of several witnesses over and over again on a whole series of matters, and I came to the conclusion that was so well brought out by Senator BYRD in talking about the figleaf that has been advanced with regard to if we do not like what we are into with this, we can relatively easily get out. In fact, we made it so easy that we have set up a meaningless panel to help us get out, and the panel absolutely would do nothing.

I saw in the Washington Post this morning a story, and there was a statement in the story that was not attributed to anybody, just a reporter's view, where it said Senator DOLE had worked out an arrangement whereby we could pull out of the treaty. Well, the arrangement that has been worked out has already been in the treaty, or the agreement, whatever you wish to call it. I simply point out that when the matter was sent over by the administration, there was a provision that is in the treaty that any nation, within 6 months' notice, can withdraw from the treaty. So I think that the figleaf or window dressing—call it what you wish—is not something that anybody can stand behind by saying the sovereignty issue has therefore been settled, it is over and done with, there is no problem. It is phony and it should not be given any serious consideration. But I recognize if somebody wants an excuse, at least it is an excuse but not a very good one.

One of the things that I think the Senator from West Virginia did not bring up that I would like to mention, in the testimony—and I may be getting into this a little further, and maybe the chairman of the Commerce Committee will also—time and time again, witnesses, when pressed on the situation as to how do we get out—I think the bottom line of summation of what we heard was you are not going to get out. Once you are in, you are in. So either now you make the decision as to whether you think it is right that you go in and, if so, right or wrong, we are in. If we do not go in, we do not have to worry about getting out. I think we should not finesse that. I think we should lay it right out on the line.

One of the other things I think about—let us assume that 3 or 4 years from now, after all of these procedures, after we go through the song and dance of having retired Federal judges making determinations and recommendations, and say that was sent to the floor of the U.S. Senate and it was passed to pull out, then it could be vetoed by the President, as Senator BYRD has very well pointed out. And then we would have to override the veto. Even if all of that were to be done, can you imagine the dilemma we would be in as a nation? Could you imagine the hue and cry of the many corporate giants in the United States and not so large corporate giants that know full well that they are going to foreign countries to make substantial investments that they would hope and probably would receive a return on if we are a part of the new World Trade Organization? Can you imagine the hue and cry that would go up? We would have many companies in the United States that would come to the Congress of the United States and say, "What are you doing?" If you do go through these procedures, if you do finally pull out, as Senator BYRD pointed out very eloquently—the art of the impossible, if it were accomplished—these companies would say, "You are going to bankrupt our company. You are going to pull us out of the World Trade Organization after, because of the strengths of it, we have gone over and established plants in these other countries, and now you are going to, for all practical purposes, make our substantial investments in plants and equipment null and void because you have pulled out of the agreement."

I simply say that maybe that is not a salient point. I say that this is one more proof positive that it is a lot easier to get into this agreement, and we may well be going into it. But it is going to be extremely difficult—the art of the impossible would be tried and tried over and again on something like this. So I think none of my colleagues should be lulled into the conclusion—and they have the right to vote however they want, and there are some good reasons, I might add, why we should go into this agreement, and I may address that later. But let us not be fooled. Let us be forewarned.

I simply would like to amplify the other excellent point that the Senator from West Virginia made, the sovereignty issue. I believe the sovereignty issue probably is one that my constituents are very much concerned about. I would say, Mr. President, from my view, that the constituents in Nebraska are probably pretty equally divided on this issue. It is not an easy call as to what we should do. I have told all of them that I will be asking questions, and I will be making statements, and I will be involved in this process. I have studied it a lot and I

have spent as much time, I guess, as anyone, with the possible exception of my friend, Senator HOLLINGS, in committees that have studied this, and I have listened to experts.

One of the experts I listened to with great interest, though, on this sovereignty issue that first brought it home fully to me—although I had some concerns about it—was Professor Tribe, who testified in front of the committee. I inquired of him in some detail about the World Trade Organization, the three-member secret tribunal that would make the final decision on whether or not sanctions could be imposed against the United States. He clarified it when we were talking about the one-man/one-vote principle.

Let me emphasize this once again so there is no misunderstanding. While I have been assured by many people in knowledgeable positions that we should not worry about this sovereignty issue, that it is something that should not concern anyone, the facts of the matter are very clear that under the World Trade Organization, we are taking and removing all of the protection we have had under the GATT agreements up until now by going into this new World Trade Organization. Certainly, I think it is true, as the defense says, in this: Look, it explicitly says in this agreement that no laws of the United States or any of the States of the United States can be changed. That is true. But let me give an example of what I think is not fully understood. Let us say, for the sake of discussion, that the State of Nebraska had a widget manufacturing company that was very important to the economy of our State, and let us suppose that the State of Nebraska had laws preventing the importation of widgets into Nebraska for strictly parochial reasons; let us suppose, for example, that Bangladesh could make widgets cheaper than we could because they have about one-seventh to one-tenth the labor costs that our widget manufacturer in Nebraska would have.

So, no, I do not believe that Bangladesh can change the law of Nebraska. But certainly under the World Trade Organization, unless I could be corrected by other people, Bangladesh could bring an action that the Nebraska law is in violation of the World Trade Organization. They could not make Nebraska change the law, but if it could not be worked out by negotiations and if it cannot be worked out by negotiations it is explicitly spelled out in this agreement that there would be a three-member panel that would meet in secret, as Senator BYRD has said. They would make a determination. If they decided with Bangladesh, then the only way that the United States could overturn that is not by one-man, one-vote and a 50 percent of the 113 or 130 nations that would be part of the World Trade Organization. The United States could make an appeal that the 3-man tribunal was wrong, but to overturn the 3-man tribunal you have to have a unanimous vote of all of the nations involved, whether they are 113 or 127 or 131, including Bangladesh who brought the charge in the first place. They would have to vote against their own interests which is another way of saying that let us not be too sure that everything is just hunky-dory and there would not be any problems on down the line.

In this regard, I asked Lawrence Tribe the question as to how he viewed this. This was his answer published on page 327, Committee of Commerce hearings, S. 2467, GATT implementation legislation:

Professor TRIBE. Senator, I think there is a mistaken premise in your question that I really want to be as clear about as I can, and I think the chairman may have stumbled onto the same issue.

Yes, it is true that under article 9, paragraph 1 of the WTO agreement, there is the one-person-one-vote approach in certain circumstances, and I think the question you raise is a very good one. Does that give enough protection to us? Is it unusual?

But what perhaps you have not focused on is that when it comes to decisions by WTO panels that find that one of our laws, either an act of Congress or a law of a State, is illegal under one of the GATT agreements, that decision is treated differently, and not in a way that gives the United States more voice. It is less than one-country-one-vote in this sense.

That is, I think you all have this fat volume that was distributed a couple of days ago, and just for your convenience, I will tell you that what I am quoting from appears on page 1,670. It is in article 22, paragraph 6 of the dispute settlement understanding. Though it is buried in fine print, it is going to make a huge difference in the future of this country. It makes very clear that the trade sanctions that are to be imposed within 30 days of a certain period of time will be imposed unless the DSB—that is, the decision body decides by consensus to reject the request for sanctions. Then it explains that consensus means unanimity.

So, that means that if 113 countries say, we think that was outrageous to find Nevada or California or South Dakota or Alaska or the United States of America guilty in these circumstances, the fact that there are votes the other way prevents the sanctions from being lifted. That is not one-person-one-vote. That is much worse, and that is the way this works.

With respect to sanctions imposed upon an offending State or country, the only way that one can reverse the decision to sanction is to get unanimity. Now, I do not know how long the U.S. Trade Representative thinks people will not focus on that, but I sure hope they do now.

I simply say that there is time remaining if anyone would like to use time. I would like to have someone if they could assure me that what the understandings of Senator BYRD, the understandings of Professor Tribe and others have and the concerns that they have about the loss of sovereignty under that three-man secret tribunal whether or not there is some explanation for that that I have missed.

The PRESIDING OFFICER (Mrs. MURRAY). The time of the Senator from Nebraska has expired.

Who yields time? The Senator from Oregon.

Mr. PACKWOOD. Madam President, I will use a moment before yielding to the Senator from Utah to answer one question of the Senator from Nebraska.

As to panels involved in the trade dispute, if Germany wants to sue us or we want to sue Germany, the panels are picked by the parties involved in the dispute and every side can veto any panelist. The parties have to agreed on a panelist.

You get into an argument as to whether or not they are meeting in secret. This is not some secret tribunal whose panelists are imposed upon us or imposed upon anybody else. We agree to them or not agree to them.

I yield 10 minutes to the Senator from Utah.

The PRESIDING OFFICER. The Senator from Utah is recognized 10 minutes.

Mr. HATCH. Madam President, I find it ironic that we are gathered together in a special lameduck session here in the Senate to debate the implementation of a trade agreement that has languished in obscurity to the average Member of Congress and the average citizen of this country for the better part of a decade.

What is it about trade agreements that garners so little interest until Congress is poised to vote on whether to ratify them?

It was just over a year ago when the Senate was preparing to take a vote on another piece of trade legislation, the North American Free-Trade Agreement [NAFTA]. As you will recall, Mr. President, it was not until long after President Bush had signed the NAFTA and Congress was preparing to take a vote for final passage that it arose out of relative obscurity to become the number one agenda item for a wide variety of interest groups and individuals even to the extent that those on both sides of the agreement were running ads on television.

Interestingly, as is the case with the Uruguay round agreement, the NAFTA could trace its origins back to the Reagan administration when the idea of a Mexican Free-Trade Agreement, tailored after its predecessor the Canadian Free-Trade Agreement, was floated and initial discussions got underway.

While working closely with the administration to craft an acceptable bill that will implement the terms of the Uruguay round agreement, I recalled those issues that have been the most controversial over the last several months and that threaten to delay passage of the Uruguay round legislation before the end of the 103d Congress are largely the same as those that threatened to delay and defeat NAFTA last

year. I would submit that we might learn something now if we look at what has happened since we passed NAFTA, especially in light of some of the grave predictions that were made during its debate. In fact, not only have those grave predictions of NAFTA opponents failed to materialize, but the immediate results of NAFTA have been as good or better than what many of us would have expected. I encourage my colleagues to bear these results in mind as we debate many of the same points that were raised during last year's NAFTA debate.

Therefore, Madam President, in the interest of time, I will enumerate the positive results of NAFTA during the first half of 1994 along with some elaborative comments on the points I will make today in the RECORD upon the completion of my statement.

In an effort to clear the air of misleading information regarding the Uruguay round and its impact on the United States in economic and constitutional terms, I would now like to briefly address some specific points that have been raised by opponents of the Uruguay round.

First, Uruguay round opponents claim that the agreement will further increase the budget deficit by $31 billion above the $11 billion that is offset by the implementing legislation. This figure is derived from the CBO estimating what the tariff reductions will be over a 10-year period. However, there is no way to confirm the accuracy of this figure, especially when you consider that this projection is 10 years in the future. More importantly, this figure does not take into account the dynamic effects of tariff reductions on market access and economic growth.

I believe that the approach taken by the administration of offsetting the Uruguay round was a reasonable one, given the political realities. Certainly, no one, including me, is totally happy with the financing provisions; but, as we all know, politics is the art of compromise for the greater good.

Second, Uruguay round opponents cite billions of dollars in giveaways to media giants including the Washington Post. Madam President, I am certainly not here to defend the Washington Post—it is certainly perfectly capable of defending itself—but I refer you and the rest of our Senate colleagues to a detailed, cogent, and truthful explanation of this complicated issue as drafted jointly by the majority and minority committee staffs of the House Committee on Energy and Commerce. At this time, I ask unanimous consent to have this document printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD as follows:

QUESTIONS AND ANSWERS ABOUT THE PIONEER PREFERENCE PROVISIONS OF H.R. 5110

1. Why are these provisions included in the GATT bill in the first place? What do these provisions have to do with trade?

You're right, they don't have anything to do with trade. However, under the "pay-as-you-go" requirements of the deficit reduction laws, any bill that increases spending or decreases revenues has to be accompanied by provisions to neutralize the effect on the deficit. Since the GATT agreement reduces tariffs, thereby reducing revenues to the Government, Congress is required under law to include provisions that offset the otherwise negative effect these tariff reductions would have on the deficit. The pioneer preference provision would generate at least $500 million, and probably much more.

The alternative—offsetting the revenue loss by increasing trade-related revenues—would require that other tariffs be raised.

2. What is a pioneer preference?

The Federal Communications Commission (FCC) established the "pioneer preference" policy, by rule, nearly four years ago. This policy offered the guarantee of an FCC license to entrepreneurs who successfully developed important new communications services and technologies.

There is substantial evidence to indicate that the "reward" of the license has proven to be sufficiently attractive to encourage hundreds of companies, small and large, to seek innovations worthy of the pioneer grant. The "reward" has also encouraged financial institutions to invest in the innovators seeking the pioneer grant. To obtain a pioneer's preference, companies have to risk more than just time and money; they also have to put proprietary design details into the public domain. This public disclosure, while a significant competitive risk, fosters the rapid development and deployment of new technologies which is at the very core of the purpose of the pioneers preference policy.

The public has already benefitted from the pioneers program. Innovations in the areas of low earth satellites, wireless cable, and narrowband personal communications services (PCS) services have led to the granting of pioneer awards, and the advancement of new services and technologies in these areas. The narrowband PCS auction raised over $650 million for the U.S. Treasury.

3. Is pioneer preference unique to PCS?

This FCC policy is not unique to PCS services. For example, pioneer preferences have been awarded for other telecommunications services. The first pioneer's preference was awarded to Volunteers in Technical Assistance (VITA), a non-profit company, for being the first to develop and demonstrate the feasibility of using a low-earth orbit satellite system on VHF/UHF frequencies for civilian digital message communication purposes. The second award was made to Mobile Telecommunications Technologies Corporation (MTEL) for developing and testing an innovative new 900 MHz narrowband PCS technology that will increase spectrum efficiency.

4. The Federal Communications Commission's order requires the pioneers to pay 90 percent of the average bid in the top 10 markets. Isn't Congress undercutting the FCC's decision by giving the pioneers a better deal than the FCC?

No, for several reasons.

First, the FCC has no explicit authority to require a licensee to pay a fee in return for the license. In its decision, the Commission claimed that it has implicit authority contained in the general provisions of section 4(i) of the Communications Act:

"The Commission may perform any and all acts, make such rules and regulations, and issue such orders, not inconsistent with this Act, as may be necessary in the execution of its functions."

While it is risky to predict the outcome of litigation, there is a very strong likelihood that when a court rules on whether or not the Commission can require a licensee to make a payment, the Commission's order is going to be reversed. In that case, the taxpayers will get nothing.

Second, the Commission's order does not permit the payment of the fee over time, and does not require the payment of interest charges. Because these provisions are included in the GATT bill, the pioneers will actually pay more utilizing the GATT formula than they would if the Commission's formula is upheld in court.

5. Is this a "backroom deal" or did Congress consider this in a deliberate fashion?

The pioneer preference issue has been thoroughly examined over the past several months by at least three Committees in the House. The Subcommittees on Telecommunications and Finance and Oversight and Investigations in the Energy and Commerce Committee; the Budget Committee and the Appropriations Committee have all examined and/or held hearings on the issue.

On December 23, 1993, the Federal Communications Commission awarded the pioneer preference to three companies for personal communications services licenses. Under the Commission's decision, the three companies would be permitted to apply for licenses while no competing applications would be accepted by the FCC. The Commission also decided that licenses would be awarded for free to the pioneer companies.

Last May, the Energy and Commerce Committee's Subcommittee on Oversight and Investigations initiated an inquiry into allegations of irregularities in the Commission's decision making process, and whether the contributions of the recipients justified granting a PCS license under this process instead of the auctions that will govern the award of all other PCS licenses. Questions concerning the FCC's process also were raised at the FCC's Appropriation hearing. To remedy the problems the Oversight and Investigations Subcommittee discovered in the Commission's program, Chairman Dingell and Ranking Minority Member Moorhead, Subcommittee Chairman Markey, along with Chairman Sabo introduced H.R. 4700 on June 30. This bill required that the pioneer recipients pay 90% of the market value of the license instead of receiving them for free.

On August 9, 1994, the FCC revised its policy to require the pioneers to pay an amount comparable to that in the legislation. The Energy and Commerce Committee remained concerned, however, that the Communications Act does not give the FCC explicit authority to compel a licensee to pay the Government in return for a license. It was the Committee's opinion that the FCC decision would likely be overturned in court.

Around this time, the Administration began negotiating with the House and Senate and arrived at the 85% payment requirement now contained in Title VIII of the GATT legislation. On September 28, 1994 the Energy and Commerce Committee marked up the GATT legislation. Title VIII was discussed at the markup. On September 29, 1994, the Budget Committee held a hearing on the pioneer preference issue.

6. Critics claim that the pioneers preference amounts to a "billion dollar giveaway." Is this allegation supportable?

No. This claim is wildly inflated and based on insupportable assumptions. Everyone agrees that the three service areas in question have a total population of 55 million. The Office of Management and Budget (OMB) and the Congressional Budget Office (CBO) have determined that the value of a license per person should be calculated at $24 per capita. (While densely populated urban areas obviously have a greater per capita value, the pioneers' licenses awarded also include large, sparely populated rural areas where the value is much below this figure). Thus, based on this $24 figure, the total potential revenue in an auction without any discount or preference would be $1.32 billion. The preference set out in the GATT legislation requires the pioneer to pay based on a formula of 85 percent of the average per capita cost in the top twenty markets awarded through PCS auctions. By averaging the top twenty markets, the formula avoids any anomalies created by looking solely at the price paid for the other license awarded in the pioneers region. (This issue is discussed in greater detail in Questions #7 and 9.)

Thus, the pioneers are likely to pay $1.12 billion, under this OMB and CBO endorsed model. The "benefit" to the three companies, collectively, is $200 million. Based on information provided by the three pioneer preference winners, their investment to date is roughly $100 million. Consequently, the net award is closer to $100 million. And, as noted above, the entrepreneurial efforts, risk, and "sweat" equity of these three companies, which the FCC deemed worthy of the pioneer's award, will result in the more rapid deployment of the next generation of cellular, PCS technology.

7. On what basis were these three companies awarded a preference for a broadband PCS license?

Last December, the FCC awarded a pioneer preference to three PCS applicants, out of more than 100 applicants. In so doing, the FCC guaranteed each of these companies the opportunity to file an application for a license without giving other companies the opportunity to file a competing application. The preference is for one of two licenses to be granted in each of the three markets. If the pioneer fails to build out and operate the system throughout the service area, the FCC may revoke the license. The FCC awarded these preferences based on its determination that their unique contribution to the development of broadband PCS services and technology justified the grant. The three companies which were awarded a preference are:

American Personal Communications: APC, which is 70 percent owned by the Washington Post, was awarded its pioneer preference principally through two, interrelated developments. First, APC provided the Commission with a study demonstrating that the 1850–1990 MHz band had a sufficient amount of usable spectrum to initiate PCS service without relocating the many microwave operations already licensed there. As the Commission acknowledges, that study focused attention on the 1850–1990 MHz band by demonstrating that a significant technical hurdle to using this spectrum—the existing microwave users—could be overcome.

APC's second significant contribution—its FAST technology—is related to the first development. Because the Commission agreed with APC that the 1950–1990 MHz band would be appropriate for PCS service, an efficient technology was needed to allow sharing that spectrum with existing microwave licensees. The FCC determined that FAST meets that need. The technology uses measurements of microwave transmissions at PCS base stations to determine frequencies that can be used for PCS communications without interfering with microwave incumbents. Without this technology, either microwave incumbents would have to be relocated before PCS could begin (a time-consuming and expensive process), or the spectrum that is now being auctioned would be useless for PCS (which would mean little or no auction revenue).

Cox Enterprises: Cox was the first cable company to apply for an experimental PCS license proposing the use of cable television plant to achieve spectrum efficiency, and centralized modulation and distributed antennas to achieve cost efficiencies. Cox was the first company to demonstrate the technical feasibility of these ideas by testing them on live cable, developing a cable/PCS interface (the Cable Microcell Integrator or CMI), demonstrating centralized modulation, and demonstrating a 2 GHz cell-to-cell handoff with cable connected microcells. These efforts demonstrated that existing networks can be used as part of the PCS infrastructure.

Omnipoint: The FCC granted Omnipoint its pioneer's preference for its significant accomplishment in developing PCS equipment—specially, its design, development, miniaturization, and deployment of the first 1850–2200 MHz handheld phone. Ominpoint developed this PCS equipment based on a unique implementation of spread spectrum technology; it documented the feasibility of its system; and it demonstrated the system in operation. The technical feasibility of Omnipoint's system was also tested and documented by more parties than any other PCS system and has been independently verified to be capable of coexisting with incumbent microwave users in 1850–1990 MHz spectrum band, thus minimizing the number of microwave licensees that must relocate.

8. Why are the markets in which the pioneers received their licenses excluded from the formula? Won't this result in a windfall to companies like the Washington Post and Cox Enterprises?

First, all predictions about the behavior of bidders at spectrum auctions are entirely speculative. We have little experience on which to base predictions. Earlier this year, when the only auction that is comparable to the PCS auction was held, bidders paid a total of $678 million for 10 licenses that Government economists thought were of so little value they didn't even bother to estimate how much was going to be raised.

Second, while attempting to predict the behavior of bidders is at best speculative, we do know this: the bidding on licenses in markets where pioneers have been awarded another license at a discount is going to be different than the bidding in markets where there is no pioneer license.

For instance, a case can be made that the winning bid for the remaining license is going to be higher than it otherwise should be, because the supply of licenses available for bidding has been reduced by 50 percent. Since the supply has been reduced, the price is likely to be artificially increased.

If the pioneers are required to pay an amount equal to 85 percent of that artificially inflated price, they could well end up paying more for the license than they would if they simply bid for it at the auction.

On the other hand, giving the pioneers a discount—either of 100 percent, as originally proposed by the FCC, or 15 percent, as contained in the GATT legislation—will confer a competitive advantage of some magnitude on the pioneer. That could have the effect of reducing the amount competitors are willing to pay, and reduce the amount of the winning bid.

The short answer is this: we know that the bidding in markets where there is a pioneer is going to be different. What we don't know is whether the difference is going to result in higher or lower bids. In order to reduce the risk created by this uncertainty—to the Government and to the pioneers—those markets have been excluded from the formula.

9. The GATT legislation requires the pioneers to pay according to a formula that is based on the top twenty markets, which ignores the fact that two of the pioneer licenses are the two biggest cities in the country. Doesn't this create a windfall for the pioneers, because the New York and Los Angeles markets are very concentrated and highly lucrative?

We don't think so. Given the speculative nature of attempting to predict the behavior of bidders at auction, a definitive response is impossible to predict. However, there are several reasons to conclude that there will not be any windfall to these companies.

First, the serve areas—known as Metropolitan Trading Areas (MTAs) are huge. Sure, the New York MTA includes Manhattan—but it also includes North Hero, Vermont, and Elmira, New York. The Southern California MTA includes Los Angeles and San Diego—but also includes Kingman, Arizona and Beatty, Nevada. And the FCC's rules require that the pioneers offer the same services in these remote areas as they do in downtown New York or Los Angeles. If the licenses were limited to the urban areas, there might be some basis for this claim. But as the size of the service territory increases to include vast rural areas and small towns, the differences between the various MTAs disappear.

Second, the allegation that there is a substantial difference in the values of the very largest markets and other large markets is not borne out by an examination of the existing cellular marketplace. Recent transactions involving the sale of cellular systems do not reveal any price distinction, on a per capita basis, between the very largest cities and other large cities.

Finally, our limited experience with auctions indicates that when the bidding for the most desirable licenses gets to be too expensive for some of the bidders, they simply drop out of the bidding for those licenses and bid up the prices of the next tier of licenses. To the extent that there is a distinction between the very largest MTAs and other large MTAs (and we don't anticipate that there will be), this behavior will have the effect of drawing up the prices being paid for all MTA licenses.

Mr. HATCH. Madam President, the issue of pioneer preferences as part of the funding mechanism of the Uruguay round has been held up by opponents of the agreement as a back room deal cut by large telecommunications businesses for their benefit. On the contrary, the provision contained in the implementing legislation that requires three telecommunications pioneers to pay 85 percent of the average PCS bid in the largest 20 markets in the country was worked out between Republicans and Democrats in both Houses of Congress and will potentially save the pioneers $200 million collectively.

However, what is not mentioned by Uruguay round opponents is the fact that before this issue was ever considered for funding offsets for the Uruguay round, the FCC was originally prepared to offer these pioneers PCS licenses for free under the pioneer preference provisions of the Communications Act of 1934.

Third, the loss of U.S. sovereignty resulting from membership in the World Trade Organization has been debated extensively by many individuals, groups, and constitutional scholars—all with conflicting views. So, Madam President, how do we resolve this difference of opinion? I have spent considerable time reviewing this aspect of the Uruguay round agreement.

I believe we must put the issue in context, and the context is found in the last 47 years of U.S. membership in the GATT. We must ask ourselves what our relationships have been with not only the GATT itself but to other GATT-member countries and how these relationships have affected U.S. laws and the ability we have as a nation and Congress to conduct the affairs of our Nation.

The fact is that never has any GATT obligation been imposed upon the U.S. resulting in a change in U.S. law that has not been approved by Congress. Never. Claiming that this practice will change with the WTO directly contradicts statutory language found in title I, section 102, of the implementing bill of the Uruguay round which states clearly that "No provision of any of the Uruguay round agreements, nor the application of any such provision to any person or circumstance, that is inconsistent with any law of the United States shall have effect." Madam President, I do not believe we can be any more clear when it comes to where the Uruguay round and the WTO stand in relation to our Constitution.

Fourth, claims have been made regarding voting procedures in the proposed WTO. Again, Madam President, we must look to the context of the GATT for the past 47 years of making decisions regarding operating rules, procedures, and amendments to GATT. The fact is that GATT has determined its administrative course by consensus. This process will not change under the WTO. This means that WTO decisions will be made on a consensus basis, not according to majority voting blocks. If and when voting procedures are invoked, member countries will not be held accountable to amendments to WTO rules and procedures that they do not support.

Fifth, Uruguay round opponents have also repeatedly advocated considering the Uruguay round as a treaty, requiring a supermajority of two-thirds of the Senate, instead of as an executive agreement to be passed by a simple majority by both Houses of Congress. Quite frankly, Madam President, the distinction between whether international agreements should be considered as treaties or as executive agreements is quite dubious.

In fact, Prof. Louis Henkin, who is considered by many to be the premier expert on constitutional foreign affairs issues, has stated that this debate is juridically a political question and thus nonjusticable.

Presidents have repeatedly submitted international agreements to both Houses of Congress, and the House and Senate have repeatedly joined together in exercising their article I powers to approve a wide range of important international agreements, ranging from Bretton Woods to SALT I to NAFTA. Moreover, to exclude the House from consideration of legislation that has such significant revenue impacts would be a serious mistake in my view.

Sixth, one issue that is important to everyone in this body—no matter which side of the aisle or argument he happens to be on—is jobs. Opponents of the Uruguay round make the claim that jobs now and for the future will be lost if we pass this agreement. But, Madam President, I believe we must look at how jobs are created. Jobs are created by capital investment resulting from increased demand, which spurs economic growth.

This demand has been generated largely by consumers around the world who want the best goods and services at the lowest possible prices. Foreign countries like Japan began meeting that demand decades ago by improving quality and reducing costs. As a result, U.S. jobs were lost while U.S. manufacturers adjusted to the increased competition. Now, in many industries, U.S. products are in high demand all over the world. Unfortunately, the costs, both tariff and nontariff, associated with accessing these markets has made exporting expensive, thus encouraging U.S. firms to shift their manufacturing bases overseas.

Fortunately, due in part to efforts by the United States to reduce these market access barriers and create fair trading rules, U.S. and foreign firms have begun to take advantage of the labor efficiency gains found in the United States. This is evidenced by the growth of our export sector in recent years—the fastest growing sector in the U.S. economy. Rejecting the Uruguay round now will only set back this positive trend that I believe will create more high-paying jobs for Americans in the future by creating incentives to invest more in their own skills and education because of the opportunities opened by increased access to overseas markets.

Seventh, there are fears held by Uruguay round opponents that ratifying the agreement will threaten our food safety and environmental laws. Madam President, historically GATT was established on two fundamental principles: First, to liberalize trade; and second, to institute a system of minimal standards and rules to enhance the benefits of liberalized trade.

Inherent in the principle of establishing a set of minimal standards to which all member countries agree to adhere does not prohibit countries from setting higher standards as long as it can be proven that the standards are scientifically based and there is no discrimination between foreign and domestic entities.

A recent example of this principle was exhibited by a challenge to our gas guzzler law and the Corporate Average Fuel Efficiency Act by German auto manufacturers. The claim made by the German companies was that these laws were an unreasonable barrier to trade. However, the challenge was rejected by a GATT dispute resolution panel citing that these statutes were nondiscriminatory and therefore not a barrier to trade. I ask unanimous consent to have printed in the RECORD an overview of that panel decision provided by the U.S. Trade Representative's office.

There being no objection, the material was ordered to be printed in the RECORD as follows:

EXECUTIVE OFFICE OF THE PRESIDENT, OFFICE OF THE U.S. TRADE REPRESENTATIVE,

Washington, DC, September 30, 1994.

U.S. FUEL CONSERVATION MEASURES UPHELD BY GATT PANEL

Ruling in an important trade dispute with the European Union, a GATT panel in Geneva found in favor of the United States today on key provisions of U.S. laws regulating auto fuel economy and luxury taxes.

The GATT panel, which the European Union asked last year to review the three U.S. automobile laws, found that the core provisions of the three laws are consistent with GATT rules. Two of the measures at issue, the Corporate Average Fuel Economy (CAFE) requirements and the "gas guzzler" tax, are central components of the U.S. automobile fuel conservation policy that emerged in response to the 1973–74 OPEC oil embargo. The third measure is the luxury tax on cars over $30,000, enacted in 1990.

U.S. Trade Representative Mickey Kantor welcomed the panel's report. "The panel has emphatically rejected the European claim that trade-neutral legislation intended to further energy conservation goals and protect the environment could be attacked because Chrysler, Ford and GM invested and complied with the laws while Mercedes and BMW chose not to, and had to pay penalties."

"The panel's finding also confirms that GATT's trade rules can be compatible with our laws that conserve natural resources and protect the environment," Kantor noted. "This decision is a recognition that our government—and those of other countries—have latitude to legislate and regulate in these crucial areas as long as they are not discriminating between domestic and imported products."

"I would expect the panel's report to help steer the debate when GATT countries take up trade and environment issues under the new World Trade Organization," he said.

The panel rejected EU complaints that the CAFE requirements, the gas guzzler tax, and

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the luxury tax discriminated against cars manufactured by Mercedes, BMW and other European luxury car makers. Those manufacturers have paid a large share of penalties and taxes under these laws.

The panel report broke new ground in crucial respects:

It found for the first time that the general exception under the GATT for conservation measures could excuse a country's law that was otherwise inconsistent with the GATT.

It recognized for the first time that, in reviewing a non-discriminatory measure of a country, it is not relevant whether other, more economically efficient alternatives might be available to achieve the government's legitimate policy objectives.

It laid to rest the concern that governments were obligated to select the "least trade restrictive" conservation measure. A measure is consistent as long as it clearly serves the purpose of energy conservation or environmental protection, and does not arbitrarily or unjustifiably discriminate between domestic and imported products.

The panel agreed with EU complaints on one technical issue—the CAFE accounting rules that establish separate "domestic" and "import" fleets for determining overall fuel economy. Because these rules do not have any actual economic impact on EU auto manufacturers, and therefore no trade damage results from this requirement, Ambassador Kantor said that the United States does not intend to make any changes in the CAFE rules.

Copies of the panel's report are available in the USTR public reading room.

Mr. HATCH. Finally, Madam President, after all the arguments that have been made by Uruguay round opponents on the substance of the agreement, they question the wisdom of considering this document during a lame duck session, claiming that nonreturning Members are not accountable to voters and that we should not be hasty in taking a vote on this document.

However, Mr. President, the Uruguay round agreement has been worked out over an 8-year period, which began during the Reagan administration. There have been several delays since 1986, and there have been several Congresses involved in crafting improvements to the agreement. There comes a point at which further delay only hurts our economy because it cannot take advantage of the benefits that will surely accrue from the agreement, such as tariff cuts, increased market access, and protection of intellectual property, just to name a few.

Furthermore, if dynamic economic projections are correct, the increased economic activity resulting from the agreement will help to reduce our budget deficit. Thus, each month we delay hampers us from reducing our budget sooner and costs the United States, in terms of increased gross domestic product [GDP], about $1.25 billion and 4,000 new jobs.

The Uruguay round is simply a sequential step along the trade-liberalizing policy path that the United States has been engaged in for more than half a century. The time has come to cast our vote on the economic future of our Nation. There will be plenty of opportunities in the next Congress and in Congresses that follow to continue improving our trade laws without defeating this important agreement that has been carefully negotiated by three administrations and five Congresses.

It is time to move ahead. I encourage my colleagues to support this agreement.

Let us look for a moment at the results of NAFTA since its implementation.

IN GENERAL

United States exports to Mexico and Canada during the first half of this year were up 17 and 10 percent, respectively.

The United States trade surplus with Mexico has increased to a record level of $2.1 billion during the first 6 months of this year.

Exports to Canada and Mexico, so far this year, are responsible for more than 52 percent of overall United States export growth.

United States exports to Mexico are running at an annualized rate of $48.9 billion, up more than $7.3 billion from the 1993 level.

Keep in mind, Mr. President, Mexico is currently our third largest export market for consumer goods, behind Canada and Japan. This means that Mexicans are buying United States products. And it will not be long before Mexico surpasses Japan as our second largest export market for consumer goods.

SPECIFICALLY

From January to May of this year—

United States auto exports to Mexico exceeded the total number of exports during all of 1993—an increase of approximately 600 percent.

In my home State of Utah, WordPerfect has attributed significant sales increases in Mexico to better intellectual property protection afforded under NAFTA.

Primary metal exports to Mexico from Utah have increased almost 3,000 percent from 1993 levels during the same period.

Industrial machinery and computer equipment exports from Utah to Mexico have increased almost 500 percent over 1993 levels during the same period.

And Utah chemical exports to Mexico have increased over 250 percent during the first quarter of 1994.

In addition, despite the job loss predictions that were prevalent during the NAFTA debate last year, the Department of Labor has reported that fewer than 5,000 applications for assistance were made at the NAFTA Adjustment Assistance Program during the first half of this year.

Yes, imports from Mexico and Canada have also increased, but is not that what the objective of the agreement was—to create a more open market where goods and services could flow more freely? We want to provide American consumers with the widest array of choices.

Moreover, can we expect our trading partners to agree to do business with us without realizing some mutual benefits? We must remember that the fundamental reason the United States pursues more liberal economic relationships is that on a level playing field we can out-compete anybody.

But, Mr. President, we are not here to discuss NAFTA. We are here to discuss the Uruguay round. And the reason I raise NAFTA at this time is to draw attention to the fact that we have all expressed concerns pertaining to specific sections of the Uruguay Round Agreement and the implementing language, just as we did a year ago during the NAFTA implementing process.

As you will recall, we argued heavily over funding for the NAFTA, labor and environment issues as they related to our NAFTA trade objectives, and the potential threat that NAFTA posed to our national sovereignty. Ironically, these are the same issues that both the House and Senate are struggling over during this current debate on the Uruguay round. Therefore, Mr. President, I encourage all of my colleagues to consider the historical lessons that we have learned from NAFTA and not to lose focus on what we have the opportunity to do for our economy now.

Our problem has been that many countries have yet to match our system of openness, a system that has served us well for the better part of 200 years. But we still struggle with trying to encourage other countries to adopt our same philosophy of openness where the benefits outweigh the drawbacks.

Therefore, we must continue to ask ourselves whether we would rather raise our level of protection and nontransparency to that of our trading partners, refusing to afford them any benefits of our markets until they adhere to our terms, or try to raise other nations' standards to our level of market access, low tariffs, and transparent trade laws, which will exploit more fully the advantages we have in economic efficiency and ingenuity, not to mention the benefits that accrue to U.S. consumers in an economy where there is more competition and more choice.

In other words, do we take a leadership role in world economics by seizing the day and controlling our own economic destiny; or, do we wait for others to hopefully act in a way that is beneficial to us? It seems to me that we have consistently and successfully chosen the leadership role.

But before the Senate determines the fate of the Uruguay Round Agreement, I would like to address a few of the key issues that surround this debate, because I am concerned that there is a lot of misinformation being spread about the Uruguay round, the General

Agreement on Tariffs and Trade [GATT], and the World Trade Organization [WTO].

First, let me bring up the issue of sovereignty. As I said, this is not a new concern when it comes to entering into trade agreements. I have heard it said that the WTO will have the new-founded ability to force the United States to change Federal and State laws that inhibit trade or are "GATT inconsistent." In light of these criticisms, I have given serious consideration to this aspect of the Uruguay round.

In order to understand the WTO, it is imperative to understand exactly what the GATT is. The original GATT was ratified in 1948 by 23 nations including the United States. The original agreement was the culmination of a post-World War II effort to prevent the return of the troublesome protectionist trade measures of the 1930's. Since that time, there have been eight subsequent GATT negotiating rounds that have expanded upon the original agreement, the latest round of which is the Uruguay round. Of course, the charter establishing the WTO is part of the Uruguay round text.

The fundamental assumption that GATT espouses is that reduced trade barriers enhance economic well-being among participating nations. Therefore, GATT was established with two objectives in mind: First, to liberalize trade; and second, to institute a system of minimal standards and rules to enhance the benefits of liberalized trade.

To use an analogy, just as individual freedoms within a political system create greater potential for citizens of the system to maximize the benefits of life and liberty, greater freedom within an economic system maximizes potential for members to obtain economic benefits, that is, higher standards of living. Therefore, the United States has always been a leader in promoting agreements such as GATT.

However, allowing more freedom within a political system without a commensurate system for fair and credible law and order creates chaos, inequality, and eventually, repression. Likewise, a more open economic structure without a system of fair rules and a credible dispute settlement mechanism only creates a situation wherein members may exploit others to their economic detriment. Unfortunately for the United States, as the world's most open economy and its largest exporter, we are at a severe disadvantage without such a system that seeks trade liberalization while employing a legitimate dispute settlement mechanism. The alternative to such a system is to become isolated and subject to the arbitrary market entry rules of each individual nation.

In 1988, Congress recognized the need for a tougher international trade dispute settlement mechanism because the United States has been the plaintiff in dispute settlement cases brought to GATT many more times that we have been the defendant, and we have won many more cases than we have lost.

Unfortunately, under the current GATT, a country that receives a negative panel decision can choose to block the adoption of the ruling or bog it down through procedural measures until the issue died without any resolution. Thus, in the Omnibus Trade Act of 1988, Congress spelled out several objectives with regard to trade. One of the objectives was to create stronger, more timely dispute settlement procedures.

The proposed WTO seeks to accomplish the 1988 congressional objective and is the result of a systematic expansion of the traditional GATT, not a completely new and powerful body that will ride roughshod over U.S. law. On the contrary, the WTO is simply an attempt to strengthen the enforcement of international trade obligations to which the United States has been committed since 1948.

Therefore, contrary to what has been characterized as a serious digression from traditional U.S. trade policy, the WTO will provide a framework and a forum to work out trade disputes and to resolve economic differences. Moreover, if Congress votes to ratify U.S. membership in the WTO, the subordination of U.S. international obligations to the Constitution and Congress' ability to make laws will not change.

In fact, Judge Robert H. Bork stated in a May 26, 1994, letter to Trade Representative Mickey Kantor that:

> * * * no treaty or international agreement can bind the United States if it does not wish to be bound * * * Congress should be reluctant to renege on an agreement except in serious cases, but that is a matter of international comity and not a loss of sovereignty.

Therefore, as one who is a student of constitutional matters, I am satisfied that the WTO will not threaten U.S. or State sovereignty any more than it has been threatened under the current GATT system.

Second, I have heard dismay expressed over what the Uruguay Round will actually do for our economy, as if negotiating with other nations to break down trade barriers around the world is somehow a dangerous policy that will only lead to economic woes for the United States. Mr. President, these are the same types of fear-promoting predictions that we heard last year during the NAFTA debate and which have not materialized.

The world is a very different place than it was at the conclusion of World War II. We are seeing myriad new and emerging markets, which were virtually closed before and which are creating new challenges and opportunities for the United States. Many of these emerging markets operate under differing economic principles and conditions. GATT and the Uruguay Round provide an opportunity for greater U.S. access to these markets.

In turn, boosting the economic conditions of many less-developed countries through trade not only expands market opportunity and customer base for developed countries like the United States, but also helps to promote free enterprise economic reforms within these countries—not an insignificant fringe benefit of free trade.

At the same time, we expose these markets to our transparent trading regime and our principles of nondiscriminatory trade policy and justice system, which protects things such as intellectual property. Only through exposure to our way of doing business will countries begin to change unfair trade practices and reduce trade barriers. GATT provides a forum for this progress to take place, and the Uruguay Round provides yet another step along the trade policy path that the United States has been pursuing since World War II.

At the risk of boring my colleagues with statistics, it is important to understand exactly what we are talking about in terms of the potential benefits to our economy that the Uruguay Round will afford.

Currently, trade represents more than 10 percent of our annual gross domestic product [GDP], which now exceeds $6 trillion. This means that we are exporting over $600 billion of goods and services. Jobs that are attributed to trade account for approximately 9 percent of our total workforce, or approximately 12 million people of a total of about 119 million workers in the United States. These figures have steadily grown since 1947, when the United States first entered into GATT and the gross national product [GNP] was at approximately $234 billion, with trade accounting for about 8 percent of that figure.

It is clear and indisputable that trade contributes significantly to our economy. We can't ignore this fact. Trade is now a larger portion of our economy in an environment of increased competition—competition which did not exist in 1947. I believe that without strict adherence to a post-World War II trade policy of expansion and liberalization, of which our membership in GATT has been a key component, we would be much worse off economically than opponents of our trade policy claim that we are today.

Another strength of the implementing language before us is the improvement it makes in our existing system of patent protection. It alters the term of patent protection from its current length of 17 years from date of issuance to the new standard of 20 years from date of application. Because the average time to process a patent application is 18 months, in most situations

inventors will receive a longer term of patent protection under this provision. Also, by focusing on the date of application rather than the date of issuance, the disruptive tactics of some who have sought to manipulate the patent system through the use of so-called "submarine" patents will come to an end.

I am aware, Mr. President, of the controversy that is associated with this issue. Unfortunately, it is a factual dispute to which the conflicting parties are in nearly complete disagreement. Some say this change in our patent law will disadvantage small inventors; some say it will instead benefit them. Only time will tell. But I have given assurances to the many small inventors in my home State of Utah—and throughout the Nation—that I will be vigilant in watching this issue. And I will not hesitate to sponsor private relief or other legislation that might be required to restore to any inventor who is disadvantaged by this change in the law to the full 17 years of protection available under current law. But it would be inappropriate for Congress to act further until there are actual, demonstrated instances of inventors being disadvantaged—through no fault of their own—by this change in the law.

In short, the clear benefits of this amendment to our patent law should not be forestalled because of the specter of theoretical cases that might arise in the future. Should those cases actually arise, the Patents Subcommittee, where I have served as ranking member for 8 years, stands ready to act and to act quickly.

Finally, Mr. President, I would like to address the issue of funding for the Uruguay round. There has been a great deal of debate concerning the financing of the Uruguay round. Because of the budget rules that Congress has established and the fact that this legislation is being considered under the fast track procedure, we find ourselves in a very interesting and somewhat difficult position as to passing this implementing legislation.

Because the Uruguay round will lower tariffs that the Treasury will collect on imported goods, there will be a loss of revenue that otherwise would be collected. Thus, under the current methods of estimating the revenue effects of legislation, and according to the budget rules, this implementing legislation will require an offset to prevent it from increasing the budget deficit. It is important to note that the budget rules in the Senate now require that these losses be offset over both a 5-year and a 10-year period. Failure to provide adequate offsets leaves the legislation open to budget points of order, which can only be overcome by a vote of 60 Senators.

However, Mr. President, as you and our colleagues know, the budget rules of the Senate do not always reflect the economic reality of the world. We have seen many examples that amply demonstrate that the fact that estimated revenue effects of various bills are sometimes woefully inadequate. In the case of the Uruguay round, it is already evident to almost every economist in the Nation that the overall economic impact of the agreement will not result in a loss of revenue to the Treasury. People on both sides of the political aisle agree that the economic benefits to the United States of increased trade as a result of the agreement will far outweigh the tariff revenue lost due to the lower rates.

By opening up new trading opportunities to U.S. businesses, up to 500,000 more jobs will be created in the country. This will result in a great deal of new economic activity throughout the Nation and a large increase in our gross domestic product. All of this new business will swell the receipt of payroll and income tax revenue to the Treasury, which will far more than offset the amount of revenue loss resulting from the reduction in tariffs.

Unfortunately, the new revenue coming in to the Treasury because of the increased economic activity and new jobs is not taken into account by the Congressional Budget Office, Joint Committee on Taxation, and Office of Management and Budget for purposes of deciding how the budget rules will apply to this legislation. Thus, we find ourselves in the strange position of facing budget points of order unless this implementing legislation is paid for by tax increases or entitlement spending cuts.

This situation put the Clinton administration in a predicament—having to come up with a package of tax increases and spending cuts to pay for the agreement to avoid having to waive the budget rules. As we all know, Mr. President, it is never much fun having to propose tax hikes or spending cuts, especially when most experts agree that they really aren't needed. This predicament was further complicated by the new budget rule in the Senate that requires the first 10 years of the agreement to be offset, instead of only the first 5 years. In terms of dollars, this requirement means that the value of the offsets has increased from an estimated $11.5 billion required to offset the first 5 years to an estimated $40 billion to offset the full 10 years.

The administration was forced to make a difficult decision—whether to propose to fully offset the estimated cost over the 10 years, and totally avoid the budget points of order, or to offset less than the full amount and face potentially fatal budget points of order from opponents of the Uruguay round. To fully offset the agreement would have required $40 billion of tax increases and/or spending cuts, which could also have killed the deal. Not offsetting the estimated revenue loss at all would have opened the administration up to criticism from various factions that a full budget waiver irresponsibly increases the budget deficit, or at the least, sets a bad precedent. We must keep in mind, Mr. President, that once the implementing legislation was delivered to the Congress, it could not be amended. Thus, the administration had to get it right the first time.

The administration chose a middle-of-the-road course. It decided to try to offset the 5 year cost of the agreement, but also decided that to come up with adequate offsets to pay for the 10 year cost would have been counterproductive. Thus, the administration set itself on a course to find about $12 billion worth of tax increases and spending cuts. As we all know, Mr. President, this decision has left the implementing legislation subject to budget points of order. Thus, in reality, it will take 60 affirmative votes to pass this deal tomorrow.

I don't know of anyone who is entirely happy with the package of offsets that the administration ultimately included in this implementing legislation. There is much to criticize. To start with, I am of the opinion that we didn't need to fund the agreement at all. When it is obvious to almost every economist that the dynamic economic effects of implementing the agreement will bring in far more revenue than is lost by the tariff reductions, why shouldn't we simply waive the budget rules and pass the bill? I realize that my viewpoint would probably not carry the day in the Senate and that an unfinanced GATT would not have the votes to pass. Thus, even though I personally do not like the idea of having to raise taxes to pay for an agreement that in reality needs no funding, I am willing to go along with the offsets that this package includes, for two reasons.

First, many of the revenue increases in the financing package are innocuous. Almost $4 billion of the revenue raised in the package comes from compliance initiatives and accelerating the receipt of taxes. These are not tax increases, Mr. President. They meet the technical definition of budget offsets, but they are not harmful tax increases. Another almost $1 billion is raised through the reform of the Pension Benefit Guarantee Corporation [PBGC]. While I am not thrilled that this reform package did not go through the usual legislative process, I am generally satisfied with the result.

Second, to the extent that the financing package does contain obnoxious and harmful provisions, and there are some, I believe we can justify them by the tremendous benefits the Nation receives by ratifying the Uruguay round. As I mentioned, I do not believe that anyone's taxes should be raised to pay for an agreement that, in reality, doesn't need to be paid for. Therefore,

for example, I am not happy that 4-percent floor on savings bond yields has been eliminated. This provision only raises $122 million, but could damage the attractiveness of U.S. savings bonds. I am also not pleased that the interest rate that the Internal Revenue Service will pay corporate taxpayers on refunds over $10,000 would be lowered. This seems unfair to me, especially considering the fact that interest paid by corporations to the IRS on amounts due would stay the same. Although these are not traditional tax increases, they nevertheless take money from the pockets of taxpayers and put it into the Treasury.

Although the financing package is not perfect, the administration is to be commended for its willingness to work with the Finance Committee in settling on the final package of revenue increases. Many of the earlier proposals, which were much more harmful to taxpayers, were removed after objections were raised by various Members of Congress. For the most part, our concerns were considered and changes were made.

All in all, Mr. President, I believe that the approach taken by the administration if offsetting the Uruguay round was a reasonable one, given the political realities. I do not believe that anyone is totally happy with the financing provisions, but, as we all know, politics is the art of compromise. I will vote to waive the budget point of order.

In conclusion, Mr. President, the Uruguay round is not a perfect agreement that is going to solve all of our trade problems, of which we have many. However, we must look at what our strengths are and move forward. The Uruguay round is a sequential step in the effort to do just that.

We cannot afford to deny ourselves the benefits of an agreement that will add $100–$200 billion to our economy over the next 5 years; that will, for the first time add provisions protecting intellectual property—the United States loses billions of dollars a year in intellectual property violations by other countries; that will significantly reduce allowable subsidy, tariff, and internal support levels for agricultural products of our trading partners, which could yield as much as an $8.5 billion increase in agricultural income over the next 10 years; and that will potentially create 500,000 jobs due to the increase in economic activity generated by the Uruguay round.

The facts are that the United States is the largest market in the world, we have the lowest average tariff rates in the world, and we are the world's largest single exporting country. For these reasons, it is in our interest to gain access to foreign export markets and to strengthen the credibility of a dispute settlement process. We accomplish these objectives by reducing current barriers to these markets and creating a stronger administrative body to ensure enforcement of the rules. The Uruguay round seeks to reduce these barriers, and the WTO provides the forum for a more credible dispute settlement process.

By reducing these barriers, we provide more opportunities for Americans to produce goods and services to export throughout the world. By creating more exporting opportunities, we create more jobs. More jobs create more earnings, which create more consumer spending and private investment, creating even more jobs. These activities also create more revenues which help to reduce the Federal budget deficit.

I support the objectives of the Uruguay round because they are good for our economy. Without a strong economy, then I believe that we do face the possibility of losing some of our sovereignty as a nation and a people.

The PRESIDING OFFICER. Who yields time?

Mr. ROCKEFELLER addressed the Chair.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. ROCKEFELLER. Madam President, I ask unanimous consent that the junior Senator from West Virginia by yielded such time as he may require.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROCKEFELLER. Madam President, it is up to the Senate to seize this historic opportunity. The trade agreement now before the United States Senate for approval represents the culmination of nearly 50 years of efforts designed to open global markets that have unfolded since the end of World War II. These moves towards a more free, a more fair, and a more open trading system have been led at every turn by the United States.

With this agreement, known as the Uruguay Round, we will join 123 other countries in adopting and improving rules of international trade in ways that are in the direct and vital interest of Americans. That is the basic reason that I will vote in favor of the legislation before us to implement the Uruguay Round Trade Agreement, better known as the GATT.

Madam President, the people of my state of West Virginia and the rest of the country are hearing from numerous critics who urge the defeat of this agreement. They are correct in saying the GATT is not perfect. But that argument completely misses the point. With this agreement, American companies and workers will see barriers to our products come down. Our industries will have more access to more markets around the world, and that is essential to creating better jobs for more of our people. At a time when Americans are understandably frustrated about stagnating wages, this is precisely when we need to make and sell more products for export. With this trade accord, it's predicted that real income for families in the United States will go up by more than $1,000. That kind of economic progress is what West Virginians and our fellow Americans are asking their leaders to help bring about.

In considering this trade agreement, we are making a choice. Defeating it will mean keeping current practices and policies in place, like the tariffs that shut out American products and the toleration of foreign companies pirating and copying our inventions, our patents, our intellectual property. Adopting this agreement, on the other hand, will make the playing field more accessible, more fair, and more beneficial for Americans.

The reality of the international market place is something we not only have to deal with, it is something that Americans must take advantage of. We do not have a choice about the nature of the marketplace and the economy that Americans now have to deal with. That is, unless we want to go back to Smoot-Hawley and effectively close our markets, which back then deepened the Depression and could cause the same results now. The world is now America's marketplace and where our economic destiny and more importantly, our economic opportunities lie.

I did not approach the Uruguay round as either a doctrinaire free trader or a die-hard protectionist.

From the beginning, I saw the talks as a chance to win the best possible deal for America and my State of West Virginia.

From the beginning, I also supported the founding goals of the Uruguay round—to open markets; to standardize more of the trading rules that all 124 participating countries would then pledge to follow; and to enforce the newly developed or improved rules so together we do more to deter unfair trade.

Through the seven years of the Uruguay round talks, our trade negotiators have pursued these goals. In the broadest sense, the effort has been about building a more healthy global economy, while charting a stronger economic future for this country.

But untold numbers of hours and pages have been devoted over these years to hammering out the nitty-gritty details of our trade laws, and thinking through the impact of hundreds, if not thousands, of small changes in those laws.

That's where I have tried to hover over the process, and play a role in affecting the outcome. I have spent a great deal of time working on this agreement, trying to fix what was not coming out well at various stages of the talks, and fighting for what I saw as essential for the people of West Virginia and the Nation.

And let me be clear, my decision to support this agreement was not a foregone conclusion. Until our trade negotiators worked out the final, crucial deals, and until the congressional committees worked out the final version of the legislation before us, I was not prepared to sign on.

My constituents know that I voted against the NAFTA because I did not think it was in the best interest of the people of West Virginia. As I said at the time, and still believe today, the idea of effectively merging the economy of the United States with a country so far behind us in economic development as Mexico still is, was a threat to the workers of West Virginia that I was not willing to accept at the time. I also said at the time, that as Mexico only accounted for 2 percent of West Virginia's total exports, I was not convinced that passage of the NAFTA was going to mean much in terms of job creation in West Virginia either. And the jury is still out on the NAFTA. Perhaps in a few years we will find that some of the worst fears were unfounded—I certainly hope so.

But the Uruguay round of the GATT is not a free trade agreement like the NAFTA. From West Virginia's perspective, the Uruguay round is essentially about establishing rules to ensure trade is conducted more fairly, with the promise of lower tariffs in countries that represent the most of our State's export markets. Tariffs act like walls that prevent American goods and services from being sold in countries as different in size and development as New Zealand is from Brazil. The Uruguay round will lower tariffs and open markets around the world to West Virginia products. At the same time, it will offer greater protection for things like intellectual property, which is vital to the chemical industry, West Virginia's largest manufacturing employer.

The Uruguay round represents the eighth round of negotiations since the GATT was formed in 1948 to establish basic principles and guidelines of world trade. The United States has always been at the forefront of promoting free and fair trade. The question before the Senate is essentially whether to update the rules by which countries across the globe interact economically.

The world has changed in incredible ways since 1948. Communism is no longer a threat, and new economies across the world are emerging as important trading partners of the United States. More significantly, the global economy itself has been transformed in ways our post-World War II leaders never could have envisioned.

Undreamed advances in transportation, communications, and information technology has made the global economy a daily and permanent reality. Simple transactions, like shipping fresh flowers or produce halfway around the world, are now routine when 20 years ago they were logistically impossible. Complex transactions that move billions of dollars or other currencies are completed with a few keystrokes. Business deals can be negotiated with trading partners on the other side of town or on the other side of the world via teleconference and fax.

On a macroeconomic level, globalization and expansion have led to unprecedented growth and creation of national wealth. But back home on Main Street, that growth and wealth still hasn't flowed or trickled to where they make a positive difference in enough lives. What's good for Wall Street or Dow Jones doesn't always put food directly on the table back in Moundsville. In fact, for the working men and women of West Virginia and people across the country who are struggling to pay the rent and save for their kids' education, they have felt greater insecurity about their personal economic situation. Globalization has opened markets all over the world, but it has also exposed our industries to foreign competition, not all of it fair or market-based.

As a result, our people have benefitted as consumers, but we have not done as well as producers. West Virginians tell me they are concerned about their jobs, their ability to build a better life than their parents, their health and retirement benefits. The opponents of this trade agreement have tried to stir up these fears, but I think they are doing the American people a real disservice.

These anxieties are not misplaced, but killing the GATT is no solution or even an antidote. In fact, it could be more like poison. The simple truth is that we cannot stop the globalization of our economy, and, even if we could, I do not believe it would be in our interest to do so. Export-related jobs are, on average, better paying jobs, and free trade has always spurred economic growth. Our objective must be fair trade in this changing world and reality.

That's why I have focused my energy on making changes to those parts of the law that deal with unfair trading practices that hurt West Virginia companies and workers. Industries like chemicals, steel, ball bearings, pipe and tube manufacturers, glass and chinaware, and other traditional industries are particularly vulnerable to unfair trade practices, and my duty to the people of West Virginia is to see that opening the trading system does not lead to the sacrifice of American jobs.

Even before the Uruguay round negotiations were concluded, I went to Geneva to fight to preserve U.S. laws that enable our industries and workers to defend themselves against unfair and market-distorting foreign competition. I insisted that the administration seek a trade agreement that achieves consistent and fair rules among all the participating countries.

In this process, I worked closely with West Virginia industries on issues that affect jobs in our State. In my view, the final text is a much better agreement than the initial draft text, but it was still far from perfect. It left a number of important questions about how to implement the agreement—which are answered in the bill we are considering today.

Answering those questions has taken a great deal of effort. We faced opposition from special interest groups that seem to care more about importing goods from other countries into the United States than preserving our own domestic industries. In the end, we fended off many of the worst threats by crafting a reasonable approach that will ultimately achieve more open and fair trade.

Madam President, following my statement, I would like to insert into the RECORD a list of specific issues that I addressed during consideration of this legislation. Throughout this process, my priorities were clearly defined by what was important to West Virginia workers and the companies that compete in the global marketplace, industries as diverse as steel is from fiber optics.

My list expanded and contracted over the last year. Some smaller items that I addressed early on were resolved last spring, while others needed constant attention throughout the summer, such as the work I did on protecting intellectual property rights and captive production.

Overall, I am very pleased with the progress made. We won some large victories and some small victories for domestic industry. Overall, roughly 14 of the 16 items I addressed turned out well. Those are victories for West Virginia companies and their workers that will help them compete in the highly predatory realities of the global market place, and they are solid reasons why this legislation should be approved.

Overall, we toughened our dumping laws, defined illegal subsidies, and took measures to improve our trade laws across the board. This is just about the best trade bill we could have come up with for American industry and American workers. While it takes steps to promote open trade, it makes sure that trade is done fairly and in the best interest of Americans, not foreign special interests.

The GATT agreement will increase trade among the United States and all of our trading partners, and I believe that West Virginia will benefit as markets for our exports open and become reliable. That should translate into more jobs and higher wages for West Virginians.

Overall, it is estimated that trade liberalization resulting from the Uruguay round will add $100 to $200 billion to America's GNP within ten years. And every $1 billion in exports means approximately 20,000 American jobs.

A key, key point is that export-related jobs tend to be higher-paying jobs. Again, Americans are understandably upset over their stagnating wages. There are a number of reasons for this, and one is that rising health care costs have quietly eaten into employers' ability to pay their workers more.

But there are also a number of areas where we must act to build a better standard of living for American families, and one key way is to expand our export markets and sales.

In 1993 alone, West Virginia recorded exports of $754 million, an increase of almost $100 million since 1987. That figure should grow considerably. Just a few of the West Virginia industries that the Commerce Department expects will benefit directly from this trade agreement are the chemical industry, household glassware and pottery, and wood products which are all listed as potential "winners."

Overall, the chemical industry represents 35 percent of West Virginia's manufacturing output, and employs 20 percent of the state's manufacturing workers—16,800 people. Add to this the other industries in West Virginia that rely on the chemical industry for their inputs, and we're talking about 127,000 workers in West Virginia who rely at least in part on a strong chemical industry.

And as I said, in addition to chemicals, the Commerce Department picks wood products and household glassware and pottery as potential big GATT winners. Foreign duty reductions of up to 69 percent will significantly improve access for U.S. household glassware and pottery products in world markets; this is especially true in Europe, East Asia and South America. And reductions in our own tariffs will be staged over a 5- or 10-year period so our companies can adjust.

As to wood products, on average we can expect reductions of about 23 percent. But more importantly, Japan, which is our largest export market will be reducing their tariffs by an average of 52 percent. And Europe will be reducing theirs by about 40 percent.

These types of foreign tariff reductions should translate into greater job security for workers in those fields and in other areas where West Virginia businesses compete around the world.

In addition, the tariff cuts that will promote access to our market should be looked at for what they will mean to American consumers—a tax cut. A tariff on goods coming into the United States, even with our lower tariff levels, is still essentially a sort of sales tax. We will be reducing these tariffs—or you could say cutting taxes—by $11 billion over the next 5 years and $20 billion over the subsequent 5 years. The Treasury Department estimates that 80 percent of those tariff reductions will be received by American consumers and businesses in the form of lower prices for foreign made consumer goods or products. This is the kind of progressive tax cut that will benefit America's working families, unlike a capital gains cut which would primarily reward wealthy investors.

Now, Madam President, before I conclude, let me also address some of the concerns surrounding the dispute settlement procedures in the new World Trade Organization [WTO]. While I have taken the concerns people have about sovereignty very seriously—I have sworn to uphold the Constitution and would never support any measure that infringed on that obligation—in this instance, I agree with Ambassador Kantor that most of the concerns raised by GATT opponents about sovereignty are exaggerated. This is one of the areas where I think the agreement's opponents have really skewed the facts. That does not mean that the dispute settlement procedures in the WTO are perfect. We can and should be diligent in making sure that the WTO is fair, and that America's best interests are served by maintaining membership in the organization.

It is abundantly clear that the WTO cannot, by itself, change U.S. law, although it can object to a U.S. law if it does not comply with internationally agreed upon trade rules, and it can ask us to change our laws. Only the U.S. Congress can make or change laws in the United States. To be even more precise, section 102(a)(1) of the legislation implementing the Uruguay round says:

> No provision of any of the Uruguay Round Agreements, nor the application of any such provision to any person or circumstance, that is inconsistent with any law of the United States shall have effect.

This is followed by the additional note that:

> Nothing in this Act shall be construed to amend or modify any law of the United States, including any law relating to the protection of human, animal, or plant life or health, the protection of the environment or worker safety, or to limit any authority conferred under any law of the United States, including section 301 of the Trade Act of 1974 [this is the provision which allows us to enforce U.S. rights and retaliate against unfair trading practices], unless specifically provided for in this Act.

This legislation could not be more specific about the primacy of U.S. law. If a WTO panel finds that a U.S. law violates the agreement, then we can either change our law to comply with the rules, or we can decide not to. In that case, the country that claims we violated the rules can impose a trade sanction against the United States. Essentially, this is the same as the way things work now.

Under the current GATT, the United States wins more cases than it loses, and considering that we were the driving force behind the Uruguay round, and the principal shaper of the agreement, that trend is expected to continue. However, there are often unintended consequences to actions taken involving so many entities, and that is why I believe that the establishment of a Dispute Settlement Review Commission—worked out between the administration and Senator DOLE—is a good idea. This Commission will consist of five Federal appellate judges appointed by the President in consultation with Congress. The Commission will review all final, i.e., adopted, WTO dispute settlement reports where the final report is adverse to the United States.

If the Commission determines that the WTO overstepped its authority or ruled in some other sort of arbitrary, unfair manner that infringed on United States rights or obligations, then we can initially seek a way to make sure the problem doesn't recur, or if this happens three times in any 5-year period then we can get out of the WTO altogether. Again, this agreement is clear on that, all it takes is 6 months notice for us to get out of the WTO.

Article XV of the Uruguay round agreement says:

> Any Member may withdraw from this Agreement. Such withdrawal shall apply both to this Agreement and the Multilateral Trade Agreements and shall take effect upon the expiration of six months from the date on which written notice of withdrawal is received by the Director-General of the WTO.

So we are not locked in to the WTO if it doesn't work. We have established a review mechanism that will oversee the workings of the WTO, and overall American sovereignty is clearly preserved.

In conclusion, let me say again that I support this bill, not just because it is good for American businesses—which it certainly is. And not just because it is good for most Americans—which it is. A very central reason is my belief that the passage of the Uruguay round is in the best long-term interest of the people of my State of West Virginia. The changes that will be made in our trade laws are just about the best possible outcome for America's industries. Markets that we have sought for two generations will open up to American and West Virginia products. Intellectual property rights will finally be protected. Tariffs, taxes, will come down, and our economy will be given a blast-off into the next century.

But we can't let our guard down, and we also can't put on blinders. The world is changing and we have to change with it. The question is therefore, how do we do that in a way that is in the long-term best interest of the working people of America? One immediate answer is by approving this trade agreement and passing the legislation before us.

In the coming years, I also think we have to continue to look at the whole universe of international trade. What globalization means to the world, the United States, and more importantly, to the workers of West Virginia and our nation. How do we provide security at home while the engine of economic growth vaults forward? And what about the broader question of "what is a national economy for"? Is it intended to create capital? To create wealth? Or can it be looked at as an element in our social contract guaranteeing a degree of personal security and economic stability for working Americans?

Those are just some of the questions we must ask and try to answer in the coming years, but what's before us today is a trade bill. This won't be the first trade agreement we have passed in this country, and it certainly won't be the last. It is obviously one of the most important pieces of legislation we have considered in some time, and I believe it is in our nation's best interest to pass it. Madam President, this is not a question of "should we move forward?" That will happen with or without us. It is a question of how do we give some direction to the way we move forward. That is what passage of the Uruguay Round of the GATT will mean. It provides a base for us to work from as the globalization of our economy takes place. It provides rules and structures to both open the world to our products and make everyone compete with the same playbook.

With this trade agreement, we have a chance to spur the growth and economic benefits that can make a real difference in the lives of hard-working West Virginians and Americans. I feel an obligation to approve this major step, and hope to see enough of this body reach the same conclusion.

Madam President, I congratulate this Administration and its predecessors for investing leadership and hard work into this important effort on behalf of the United States. Ambassador Kantor and his team have earned special commendation. Chairman MOYNIHAN proved his commitment to economic progress by steering the work on the implementing legislation through the Senate Finance Committee, helped at a critical stage by Senator PACKWOOD. I also want to single out Ken Levinson of my own staff, for his talented labors in assisting me to serve West Virginians and the country's interests in every possible way.

EXPLANATION OF SPECIFIC PROVISIONS OF THE IMPLEMENTING LEGISLATION FOR THE URUGUAY ROUND TRADE AGREEMENT

ISSUE BREAKDOWN

1. Captive Production: This provision was one of my chief efforts to improve the ability of domestic steel companies to make the case that dumped imports are harming them.

2. Intellectual Property Rights/Section 337: I authored the provision in the bill that will make it easier to enforce our intellectual property rights—patents and trademarks—against infringing imports. This is important to preserve the effectiveness of our trade laws for high tech companies like Corning.

3. Fair Comparison: This issue will affect all industries that compete with dumped imports. It changes the way we measure the cost of a product in the United States versus the cost of a product in its home market or another market. There is a lot of detail to this, and the provision as it came out of the Finance Committee was better than what made it into the final bill, but if this is done right it should be "fair" and effective for all concerned.

4. Duty absorption/Sunset: This partly deals with the problem of importers who don't pay enough duty because the related foreign company they buy from covers the cost of the duty—"absorbs" it—which offsets the effect of our trade laws. This is not as good as the "duty as a cost" provision, which would have doubled the absorbed duty, but it is a step in the right direction. The steel industry was very interested in dealing with absorption of duties by related parties.

5. Circumvention/Diversion: For the first time, this bill addresses the problem of importers who try to get around our trade laws by importing a product from a third country. The example everyone uses would be if Korean televisions were assembled in Mexico to get around our dumping laws. This provision should help prevent that kind of abuse.

6. Anti-competitive practices: The bill maintains our ability to use our leverage to open markets that are closed to our products (Section 301, and Super 301); to battle things like Japanese keiretsus that unfairly block American products from being sold in Japan. Just this Fall we cited Japanese practices in auto parts under Section 301. These are valuable tools for increasing American exports worldwide.

7. Causation: This is another "small" provision that could have a big impact. The Administration agreed with me that dumped imports need only be A cause of injury to a domestic industry, not the cause of injury. This makes it much more likely the ITC (International Trade Commission) will vote to find injury when it exists.

7A. The Administration agreed with me that improvements in the condition of an industry after posting the initial bonding rate should not be taken into consideration when making a final determination. This preserves the intention and integrity of our dumping laws.

8. Standing: We won an important concession when it was agreed that if a domestic producer opposes a dumping petition brought against a company that is related to the domestic producer, then their opposition should not be counted. This is only reasonable. For example, if Sony USA objects to a dumping case being brought against Sony Japan, their opposition should not be considered—they're not an objective party.

9. Subsidies: For the first time, international trade laws recognize that only certain kinds of government assistance are allowed. This is a huge step. The implementing legislation also ensures our ability to retaliate against harmful subsidy practices. In the future I hope we even more strictly limit the ability of foreign governments to subsidize weak industries. Overall, this is a big step in the right direction.

10. Negligibility/De minimis: This relates to the question of when the ITC can add imports from different countries together in order to decide if the domestic industry has been injured. From our point of view, the more they add together, the easier it is to find injury—and the more accurate too. Under the bill, if imports from a country are less than 3 percent of the market, then they are considered insignificant, but if you add up negligible imports from a number of sources and they add up to more than 7 percent, then they are counted. I advocated this "bright line" standard and it made it into the bill.

11. Averaging: This is another tool we have in our dumping laws to make sure we account for variations in price of imported goods if they sell for one price in one place, but another price in another place, or at another time. The way we determine what the price really is, is vital for determining if it is being undersold in a particular market. The methodology that the Administration is going to use in "averaging" prices is what I advocated.

12. GSP (Generalized System of Preferences): GSP is the program we have in our trade laws that allows some leniency in our trade laws for goods from developing countries. Generally, this is a pretty good program, but they only went half way on one of the changes I wanted in it: To permanently exempt from this provision import sensitive commercial chinaware, glass, and glassware. Instead of making the exemption permanent, they extended exemptions to 3 years instead of having to apply for them yearly. This is a half victory, and since we renewed GSP for only 1 year, we can have at it again next year.

13. Suspension of the duty on ODI: In 1993, on behalf of Miles Inc., who employ 1,400 people in New Martinsville, I introduced legislation to eliminate the duty on ODI (Octadecyl Isocyanate), a chemical that is used to make the sticky surface of Post-It note pads. This was then included in the legislation implementing the Uruguay round.

Following is a description of two proposals that I opposed and that were fortunately omitted from the bill:

14. Economies in Transition (EIT): This would have created a real loophole in our laws that would have made it easier for countries like Russia to dump goods into the United States. There might be sound foreign policy reasons for helping the Russian economy, but this particular program would have hit domestic industries like steel and other metals particularly hard, because countries like Russia can make those products cheaply. I fought against this idea, and it didn't make it into the bill.

15. Short (or No) Supply: This was another attempt by importers to get around our legitimate trade laws. I fought hard against this, and I'm pleased that it was soundly defeated.

16. Start-up: When we are trying to decide if an importer is selling below his cost of production, we have to figure out what his actual costs are. Part of that is what costs are included in starting a production line (known as "start-up"). There are some good things in this, but I am concerned that "variable costs"—materials you have to buy, hourly labor, etc.—are allowed to be included in the calculation of what are considered legitimate precompetitive costs.

The above might sound like Greek to people who haven't specialized in trade issues, but for those of us who have worked on the Uruguay round for years, they are the bread and butter of our trade laws. As I said, some of these issues take up but a few lines of text in the bill, but they can make a real difference to an American company that is harmed by predatory foreign trade practices. Of the 16 issues that I addressed in the process of negotiating the Uruguay Round and writing this legislation, 14 of them came out in a way that benefits domestic industries and their workers in West Virginia and across the United States.

Mr. PACKWOOD. Madam President, I am shortly going to yield to the Senator from North Carolina.

When the Senator from West Virginia referred to small companies, I have the same situation in Oregon. We hear "multinational, multinational, multinational" all the time. One company in Oregon, a husband and wife and a third person, have invented an insert to use after a tracheotomy. They have a patent, a worldwide patent, and they are selling these things all over the world. Three people.

Another company, which I doubt has a score of employees at the outside, has found a process for freezing baked potatoes after they are baked, and they are selling them all over the world. These are individual entrepreneurs who have found a niche and they found that the world is ready for them, assuming there is an opportunity.

I yield 15 minutes to the Senator from North Carolina.

Mr. HELMS. I thank the Chair and the distinguished Senator from Oregon.

Madam President, I think it was exactly 22 days ago that the American people went to the polls and voted for less government, lower taxes, and an end to backroom deals. Clearly, the American people were demanding—and they are entitled to it—fundamental changes in Washington.

Here we are 3 weeks and 1 day later, and what is the Senate's response? It is business as usual, with a lame duck Congress preparing to approve a treaty that is not being considered as a treaty, with legislative language that pitifully few Senators have even bothered to or had time to read. As a matter of fact, Senator HANK BROWN of Colorado is one of the few to step forward and announce that he had indeed read the entire agreement.

Several of us asked the President to delay the vote on the GATT trade agreement until early next year, like the middle of January, so that it could be carefully considered by the new Congress. The vote on this GATT agreement should be delayed, but it will not be, obviously.

Madam President, we have a 22,000-page world trade agreement —a treaty, if you please—poised on a so-called "legislative fast track" with only 20 hours of debate allowed, with no amendments in order and motions in order. This raises several legitimate questions like: What is the President afraid of? What is it in this agreement that could not withstand just a little bit of sunlight? The hearings in the Foreign Relations Committee lasted 3 or 4 hours. The number of witnesses was limited. What is the necessity of pushing this trade agreement despite the will of the people?

I have in hand a Yankelovich poll of yesterday, and this pollster is widely respected. Sometimes he comes forth with findings that I do not agree with, and sometimes it is the other way. But yesterday his poll showed that by large margins the American people oppose the General Agreement on Tariffs and Trade. Most Americans surveyed think that the current lame duck Congress should not vote on GATT. They oppose waiving the Senate budget rules to approve GATT, and they think that GATT should not be able to override the U.S. laws. By a 5 to 1 margin, Republicans think that it is inappropriate for the lame duck Congress to vote on GATT.

The Yankelovich pollsters contacted 1,000 American adults and found that 63 percent of Americans want the next Congress, the 104th Congress to vote on GATT—not this lame duck Congress that is meeting today. Furthermore, 67 percent of Americans think that the U.S. Senate should not waive its budget rules to pass the GATT; 57 percent of Americans think that GATT will bring about a loss of American jobs; 51 percent of Americans indicated opposition to GATT, with only 33 percent in favor of it.

Madam President, this proposed World Trade Organization that is created is being called by many Americans "the United Nations of world trade without a veto for the United States." Madam President, all of us want to expand world trade and eliminate foreign trade barriers. But, speaking for myself, I am for world trade all right, but I am flat out against world government.

And I believe this is what we are marching toward, and I believe that the vast majority of Americans feel the same way about it.

Madam President, it is a fact that this agreement will add billions of dollars to the Federal deficit. The Senate is about to ignore the law, to ignore the Constitution, to ignore the budget rules and vote to increase the deficit. That is not an appropriate thing for the Senate to do.

I commend the able Senator from West Virginia, Senator ROBERT C. BYRD, the President pro tempore of the Senate, for his decision to raise a point of order.

I had the honor of serving with another remarkable Senator, a great constitutional scholar, named Sam Ervin. One of Senator Ervin's greatest apprehensions was the danger that international agreements so often pose to the national sovereignty of the United States. Senator Ervin used to say the United States has never lost a war nor won a treaty, but that was before American military forces were sent to Vietnam to fight a war that they were not allowed to win.

In any case, this new trade agreement should have been submitted to the Senate as a treaty and considered as a treaty under the Constitution of the United States.

The United States joined the United Nations by treaty. The United States joined NATO by treaty. The Congressional Research Service concluded that pursuing the position that treaties and Executive agreements are "interchangeable" could result in "reading out of the Constitution the treaty process" entirely, and that is a quote from the Congressional Research Service.

Madam President, I reiterate that very few Senators have even glanced at this trade agreement, let alone read it, let alone studied its implications. As I said earlier, Senator HANK BROWN of Colorado did, and he expressed astonishment at what he found. The able Senator from Colorado concluded that he could not vote for this GATT agreement.

Small wonder, because under the World Trade Organization, the United States has precisely one vote out of 123. And since the United States will have only one vote, it is a certainty that the United States will be outvoted by Third World countries, just as is the case in the United Nations where 83

countries vote regularly against the United States. The United States is likely to be outvoted by such countries as Uganda, Ghana, Chad, Zimbabwe, Cameroon, Bangladesh, Cyprus, the Maldives, and others.

Madam President, in the United Nations, the United States does have veto power in the United Nations, but the United States will not have it under this agreement.

Madam President, the American taxpayers, once again, will fund an international bureaucracy that is in no way accountable to the American taxpayer. It is a bureaucracy that will grow and grow and grow just as other bureaucracies of international character have grown and grown and grown. Just consider, for example, the World Bank. In 1951 it employed 400 people. In 1994, the World Bank bureaucracy exceeded 6,300 people.

Once again, let me emphasize that the United States will no longer be able to veto bad decisions from this international agency, the WTO. If we can use the WTO against Japan and France to cut down their laws, foreign countries can use it to cut down United States laws. We cannot have it both ways. Either it works or it does not.

Finally, Madam President, this agreement will harm workers in many small businesses in North Carolina and indeed throughout the country. Apparel and textile employees will be particularly hard hit. There is no way that U.S. workers can compete with Communist Chinese slave labor or with child labor anywhere in the world, especially in the Third World countries, who are paid 50 cents an hour for their labor.

I think the Senate should support the point of order and postpone consideration of this agreement until early next year and let the next Congress, not this lame duck Congress, do the job of examining it carefully. And by all means there should be separate votes in any case on the World Trade Organization itself. There ought to be two issues, the agreement and the World Trade Organization.

I thank the Senator for yielding to me, and I yield the floor.

The PRESIDING OFFICER (Mr. WELLSTONE). Who yields time?

Mr. HOLLINGS. Mr. President, I yield 20 minutes to the distinguished Senator from Montana.

The PRESIDING OFFICER. The Senator from Montana is recognized.

Mr. BAUCUS. Mr. President, I thank the distinguished Senator from South Carolina.

Mr. President, I rise, with great regret, in opposition to this bill, and I will explain why.

When we opened the Uruguay round in the fall of 1986, we Americans hoped to bring trade in services and farm products under the GATT, cut agricultural export subsidies, require GATT members to protect intellectual property rights, continue cutting tariffs and opening markets on a fair, reciprocal basis, and approve dispute settlement while protecting American interests, particularly our rights as American citizens.

Those were ambitious goals, the right goals, and the Uruguay round, I think, is an agreement which, although all of us worked for and although it meets many of those goals, it does not meet enough of them and we should not vote for it today.

I believe that we have not met the last and most important goal, that is, preserving U.S. sovereignty, and we are not assuring that the middle-income American receives enough of the benefits that the large companies under this agreement themselves will reap.

That is why I cannot support this. And I urge the Senate to reject it today, come back next spring after we have negotiated with other countries—we have been on this, after all, for 8 years; a few more months is not going to make a big difference—and address these fundamental problems and solve them.

I believe the World Trade Organization this bill creates has two problems. I do not think it makes sense to give the United States, the world's largest economy, the largest importer and the largest exporter, no more voice in major WTO decisions than any other country. It just does not stack up. It is unfair. It is wrong.

I also fear that the dispute settlement process threatens one of the most important rights of citizens, that is, the right to due process in American courts.

Let me begin with the positive. The United States is already the top exporting country in the world, exporting $464 billion in goods and $180 billion in services last year. Together, our exports of manufactured goods and farm products support 9.3 million jobs, one job in every 12 across the country.

We are also the world's most open economy.

So here, as in every one of our other trade agreements, we reduce our barriers by less than other countries reduce theirs.

The Uruguay round cuts tariffs by an average of 33 percent around the world. That means America cuts tariffs 1½ cents on the dollar. The foreign countries, on the average, cut by 4 cents on the dollar and Japan cuts 2½ cents and Europe about the same, India 15 cents, and Brazil 11½ cents, and so on around the world.

Then consider intellectual property—the copyrights, patents and trademarks which make our artists and inventors get the benefit of their creative work. Today we Americans lose tens of billions of dollars to intellectual property piracy. We suffer because not just a few but dozens of countries let individuals, companies, and mafia organizations skip the creative work of writing a book, recording a song, shooting a film or writing software and avoid expensive research and development and essentially rip us off.

Under this agreement, they will adopt our high intellectual property standards and because of that we will be better able than ever before to fight pirates and rip off artists around the world.

Then take agriculture. Europe will cut export subsidies by 21 percent. That should open wheat and barley markets around the world to American farmers, and by binding tariffs, this agreement blocks others from discriminating against us.

China, for example, retaliated for a textile dispute in 1985 by refusing to buy Montana wheat. When China eventually joins the GATT, that will stop for good.

Equally important is something this agreement does not do. It does not weaken our domestic trade lawsuits. We preserve our right to use section 301 antidumping and countervailing duty laws and keep fighting theft of intellectual property through Special 301.

And we update our laws to cover such critical issues as exclusive Japanese business practices. So the economics, in terms of overall total GDP, may be on the side of the bill. It will increase total aggregate GDP in this country and other countries around the world. But there is a deeper, more fundamental issue involved.

No trade agreement, no matter how good a deal it is, is worth sacrificing our basic rights as American citizens. I am afraid the new World Trade Organization this bill creates will do just that. And that risk is too great. And that is why I will vote against this bill.

I must say, Mr. President, this is not an easy decision. I have supported fast track legislation on the last major trade bill. I supported the Canadian Free Trade Agreement and I supported NAFTA because I thought they were good for America.

Mr. President, for 8 years I supported the Uruguay round with confidence that the changes in dispute settlement would not intrude upon our fundamental rights. But an event just 3 months ago shook that confidence. I will not go into great detail, but essentially we reached agreement with Canada during the CFTA negotiations to settle subsidy disputes through our countervailing duty laws with dispute panels available to Canada only to make sure the laws were properly used. Although I received assurances from constitutional lawyers, trade experts, the Reagan administration, and everybody else that the Canadian dispute settlement panels would work strictly in accord with American, the fact is, that is not what happened. Our members on the panel played fair. The Canadian members did not play fair.

Here is a statement of Judge Malcolm Wilkey, a U.S. panelist, who said:

The panel started, of course, by giving us the litany of standard review of administrative agency action as enunciated in the United States law, all thoroughly familiar. The panel then proceeded to violate almost every one of those canons of review of agency action.

Why? Because we played fair and the Canadian members did not play fair. It is a system that is flawed.

What about the WTO? Will that be any better? I have tried to persuade myself that the problem that occurred with Canada cannot happen with the WTO. I debated the issue with my staff, with experts and friends. I studied this with great care. The problem is, the more I have studied it, the more my worries grew, the more problems I had, and the more I reached the conclusion that not only these kinds of problems but probably many more problems will occur under WTO.

It has been mentioned often that WTO provides that we will not be able to veto any of the panel's decisions. Presently, we can. And that is why we have not worried too much about the membership of the present GATT.

Currently, each country in the GATT gets one vote. We have not worried about that standard because any country could veto an egregious, unfair decision by a GATT panel.

Now, the laws have changed. The stakes are much higher. And that is why it is so important that we look much more closely at the composition, the standards of review, the selection process, and the procedures under this new WTO. This body has not done that. And I submit the more one looks at it, the more one sees flaws.

Mr. President, it is outrageous. The United States of America has one vote and every other country also has one vote. It is an outrage. Nobody, and I say nobody, can stand here on the Senate floor and defend that. Nobody. Nobody.

What about the World Bank? The World Bank vote is weighted according to the size of the country, as it should be. What about the International Monetary Fund? It, too, its composition, its voting powers are weighted according to the size of the country, as it should be.

What about the United Nations? Sure, we have a General Assembly, but we also have a Security Council. That is fair. That is the way it should be.

This agreement does not do that. This agreement is totally contrary to the basic precepts of American civil process. We should go back to the drawing board and make some changes. It is clear other countries want this agreement. It is clear the United States wants this agreement. And we know, Mr. President, where people want an agreement, they can find a way to reach an agreement. There are a lot of ways to skin a cat. We can get this done.

I hear all of these horror stories that if this is not approved, the world is going to come to an end, a cataclysmic response, Smoot-Hawley. You hear all these horror stories.

Mr. President, it is all baloney. It is untrue. What is going to happen if we reject this? Do you know what is going to happen? Big headlines in the paper, big stories on the evening news. How long is that going to last? Maybe a day, maybe 2. A lot of scrambling around.

We want to address the trends in trade in this world. Other countries want to address the trends in trade in the world. We will find a way, a more realistic way that more realistically reflects the powers and the strengths of countries to get a better solution. That is what is going to happen.

Overall, we have been working on this thing for 8 years—8 full years. This agreement does not have to go into effect until July. What is wrong with going back and renegotiating for a few more months? I ask you, what is wrong with that? Nothing. Nothing is wrong with trying to get a little bit better agreement. Not because we are trying to achieve perfection; but because we are trying to do what is right.

There is one other point, Mr. President. I heard a lot of comments on the floor of this body today saying, well, gee, the world has become more global, with faxes and modems and computers and program trading and advances in technology. We have to get with it. We have to adopt this because if we do not, the world is going to pass us by.

That is not true. It is true the world is changing. The world is changing dramatically. Different people, different organizations, different countries are doing different deals within the country and around the world. Capital travels at the speed of light. It does not respect national boundaries. Investors go to where they can get the greatest investment.

That is what is happening. The world is incredibly competitive. As a result, it is not only American companies, it is not only Japanese companies, it is not only European companies, it is other countries' companies that are downsizing. They are laying people off. In many respects, they have to become "more efficient," to be more technological. That is happening. And it is going to happen with or without a trade agreement.

But what else is happening? What is happening is the major companies, those in position to take advantage of this new world order, are getting the benefits. That is fine. They should get benefits. I strongly believe in competition. I strongly believe someone should go out and try to make a better product more efficient. That is fine.

But what also is happening? The average middle-income American is not getting in on the deal. He is not getting the benefits.

We have to find a way, Mr. President, when we pass trade agreements, that not only the companies—and they should get higher profits, their officers should get higher incomes—but the working stiff, the guy who is working in the plant, the average middle-income American, sees his income increase. And we all know, according to statistics, the exact opposite has happened. As trade has increased, as GDP has increased as a consequence of trade, average middle-income Americans have seen their incomes decline.

I am not standing up here and saying it is an exact quid pro quo. I am not standing up here and saying this is an exact correlation and totally causal. I am not saying that. But I am saying there is some cause, some relation; there is something going on here that we Americans, as we pass this big trade agreement, are not dealing with.

I have been over to Geneva. I have been to Brussels. I have been part of these trade negotiations. Who is there? It is the major companies, the multinational companies. The big economists and the big bankers. That is fine. They should be trying to do a better job for themselves.

But who is not there? Who is not there is the average middle-income American, the average middle-income Montanan, West Virginian, Oregonian. They are not there and they are not being represented and they are not part of these agreements.

Mr. President, I have what I call workdays. One day a month I work at some job in Montana. I show up at 8 in the morning with my sack lunch. I am there to work. Not to watch but to work. I have worked in saw mills, worked in mines, waited tables, hospitals, helped Alzheimer's patients, day care centers, Meals On Wheels—I love it. It is great. And I tease people at home by saying one day a month I do an honest day's work. It is very educational.

My workday a few weeks ago, just preceding the election, was in Lewistown, MT. I worked in a bottling plant. It is called Big Springs Bottling Plant. They bottle spring water. I worked all day there putting bottles on assembly lines and I was working with a forklift operator. His name was Rick.

Rick turned to me and said, "Max, my father said anybody who carries a lunch bucket ought to vote Democratic. But I don't vote Democratic anymore."

I said, "Why?"

He said, "I don't know, it just seems to me"—and he is a typical fork lift operator, in his fifties, has a mustache; typical American, typical Montanan. He says, "I don't know, it just seems to me that Democrats kind of have forgotten people like me. They have forgotten the average guy. They are more

concerned about gays in the military, about foreign aid, about welfare," and he probably could have said about these trade agreements. That is, benefits for other people—the wealthiest people, or some of the most unfortunate people—but not enough about him.

I say that passage of this agreement today as it stands now with its current provisions is another example of—I do not say Democrats, I do not say Republicans, I am just saying all of us, who represent the average American—forgetting Rick again. But saying no to this agreement is saying we can make it better, to better reflect what he is grappling with, what he is trying to cope with, where his rights are better protected as an American citizen. Figuring out some way to get more of the benefits to the average middle-income American is something I think he would like us to do.

I have said many times it is a hard thing for me to do because I generally support trade agreements. But I am also saying just because somebody supports a trade agreement does not mean all trade agreements are good. There is a lot that is good in this agreement. But there is a lot that is not good. I am not trying to achieve perfection. Perfection can be the enemy of the good. But I am saying that the WTO dispute system is set up in a way that is not fair to Americans. I am also saying we have an obligation as Members of this Senate to try to find a way, a better way to make sure more benefits go to average middle-income Americans.

I have been struck by the debate here this afternoon. But the major point I think has not been engaged. It is like two ships passing in the night. More free trade may be better for America, but we should better help the little guy. We should spend more time trying to figure out how the benefits of trade agreements get down to the average middle-income American.

With that, Mr. President, I yield the floor and thank the Senator from South Carolina.

Mr. HOLLINGS. I thank the distinguished Senator from Montana. It is a very understanding statement. As the chairman of our trade subcommittee of finance, it is a very, very significant statement.

It is my colleague's turn?

Mr. BREAUX. If the Senator wants to alternate, if that is all right, I inquire of the Senator from Virginia how much time does he wish?

Mr. ROBB. I would say to the Senator from Louisiana, about 10 to 12 minutes max.

Mr. BREAUX. I yield whatever time he may consume to the Senator from Virginia.

The PRESIDING OFFICER. The Senator from Virginia is recognized.

Mr. ROBB. Mr. President, I thank you and I thank the Senator from Louisiana for yielding time.

Mr. President, in a perfect world there would be no tariffs or restrictions on trade whatsoever—and foreign governments would not subsidize their domestic industries to give them an unfair advantage on price competition. GATT does not bring us a perfect world, but it does move us in the right direction.

GATT combats protectionism abroad and spurns it at home. Rejecting the most comprehensive trade accord in history would tell Americans that we could not cope with change and that we did not have confidence in America's ability to compete in a world economy. I think that is precisely the wrong message to be sending, and it reminds me of dark days in America over 60 years ago.

Mr. President, there was a time in our history when we made the mistake of looking inward, isolating ourselves from the world, and ignoring what the global economy had to offer. Republican Herbert Hoover was President and the 1930 Smoot-Hawely Tariff Act was the law of the land. In his economics primer, Nobel Economic Laureate Paul Samuelson notes that "economists—who are supposed to agree on almost nothing—were unanimously opposed to the extreme tariff rate in the Smoot-Hawely Act."

Mr. President, Senator Smoot and Representative Hawley had it wrong then—supporting a wall of tariffs around America—and we should have the wisdom not to repeat those mistakes. This country should lead the world economy by example. Free, unencumbered trade is in our interest. Tariffs impede U.S. economic growth, reduce our standard of living, and prevent our job base from growing.

GATT reduces the tariffs other countries impose on U.S. manufactured goods and services and it will reduce the cost to U.S. consumers of goods manufactured abroad—and in so doing will create an estimated 500,000 jobs over a 10 year period, while increasing America's income by an average of about $1,700 per family. GATT's fundamental accomplishment is basic and real: It provides Americans new economic opportunity, a vital chance to improve their livelihoods, and new horizons abroad to build something from nothing.

In particular, Virginia businesses large and small have demonstrated their ability to compete in the far corners of the globe, and our overall trade policy, it seems to me, should reflect an effort to assist, not inhibit, U.S. exporters. These companies are seeking greater market access, lower tariffs, and less foreign government intervention abroad. GATT makes breakthroughs in all three areas.

Mr. President, Virginia companies are increasingly dependent on export markets abroad. The Commonwealth of Virginia recorded merchandise exports in 1993 of $8.2 billion, a 160 percent jump achieved over just the last 6 years. Virginians stand to make tremendous economic gains from GATT given tariff elimination on paper products and reductions on furniture and wood products by the European Community, which is the State's largest export market. The same goes for Virginia produced industrial machinery, tobacco, electronic equipment, renewable energy technology, fish and fish products, chemical products, and high technology exports. Virginia is ready to seize additional market share abroad, and GATT serves as the linchpin for easing if not eliminating outright foreign protectionist barriers.

Mr. President, the effect on one Virginia industry perhaps crystallizes the debate over GATT better than any other. Our Commonwealth exported $856 million in transportation equipment in 1993, second only to tobacco in net dollar terms. As a result of the Uruguay Round, tariffs on transportation equipment will be reduced anywhere from 40 percent to 80 percent worldwide.

Virginia companies and Virginia workers stand to benefit from GATT immediately. Amadas Industries, based in Suffolk, employs 160 Virginians to build peanut harvesting machinery and other kinds of agricultural equipment. It estimates that GATT will pump exports as much as 50 percent in the next 3 to 5 years, particularly to Asia and South America. The Marine Development Corporation in Mechanicsville, the Sonix company in Springfield, the Hampton Roads Maritime Association and the Mobil Oil corporation join dozens of other industries, companies, organizations, and people in Virginia rallying for GATT. And I hear their voices loud and clear.

But are there elements of the agreement we ought to be concerned about? Absolutely. 22,500 pages of new trade rules do not come without problems. A range of opposition voices has observed that this trade deal vests far too much power in the World Trade Organization, which will have the authority to dole out penalties for trade violating nations through a complicated system of panel adjudication.

Under the WTO, the three nation member panels that will hear and judge trade complaints from one nation about another will meet in secret. Hypothetically, the panel could rule against the United States in a particular case, and only a limited appeal could be made to the broader GATT membership. Failing at that level, the United States would have no choice but to change the policy, regulation or law in effect or else the nation initiating the trade complaint could return to the GATT membership to invoke appropriate penalties.

Given these arguments, I will support legislation next year that establishes a

WTO Dispute Settlement Review Commission consisting of five appellate judges who will, according to the Administration, "review all final WTO dispute settlement reports adverse to the United States." Acting as a fail-safe mechanism, the Commission's judgments could signal Congress to initiate a procedure allowing the U.S. to exit the WTO in short order.

The Administration has worked hard to resolve other problems as well. For example, provisions in the legislation relate to an auction of spectrum for personal communications systems. Three pioneers in the PCS industry have been awarded licenses to encourage their participation in this innovative environment. Originally, these companies were slated to receive the licenses for free. But while we should encourage innovation and improved technology, we should not do so at an unreasonable expense to the American taxpayer. The compromise rewards the innovation of these companies by allowing them to purchase spectrum at 85 percent of market value. The agreement reflects a reasonable balance between stimulating advances in technology while ensuring that taxpayers are fairly compensated. The resolution of this matter in the legislation will make PCS services available for the first time in Virginia, giving our consumers greater choice and lower prices in purchasing wireless services.

But should these limited arguments about GATT, particularly the ones about circumscribing sovereignty, cause us to reject the whole package? Not at all, Mr. President. In fact, we would be foregoing a $750 billion global tax cut by voting GATT down, as well as causing a significant blow to our leadership in the world today.

Finally, Mr. President, as we move to adjust to the international economic order through GATT, we have a responsibility to assist those Americans currently working in industries that are unable to meet the competition abroad. They deserve our support through retraining assistance and other means as they face a transition from one job to another.

Mr. President, I will conclude by quoting from a November 22 editorial from the Roanoke Times & World News which paints a discouraging picture of a world without GATT that I happen to share: "If GATT goes down, so will stock in America as a leader in liberalizing trade rules. If international support for the agreement collapses, protectionism would surge, commerce would contract, and the likelihood of trade wars would loom large. Congress should approve GATT on its merits, and for the good of the country."

Mr. President, I will vote for the GATT implementing legislation, and I will vote to waive the budget point of order.

I thank the Chair, I thank the Senator from Louisiana, and I yield the floor.

Mr. HEFLIN addressed the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. HOLLINGS. Mr. President, I yield 20 minutes to the distinguished Senator from Alabama.

The PRESIDING OFFICER. The Senator from Alabama is recognized.

Mr. HEFLIN. Mr. President, I ask unanimous consent that at the conclusion of my remarks, there be printed in the RECORD a letter from Carol E. Johnson of Madison, AL. I think that she has written me a very excellent letter pertaining to the GATT. I do not agree with all of the statements that she makes in regard to the letter, but I think overall it is one of the best documents that I have seen pertaining to GATT and I ask that it be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. HEFLIN. Mr. President, I also ask unanimous consent that at the conclusion of my remarks there be printed in the RECORD an article by Anna Quindlen, who is a columnist for the New York Times, which is entitled "Out of the Hands of Babes." I ask that it be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 2.)

Mr. HEFLIN. Mr. President, the fundamental question we must answer with this historic vote is: Will the best interests of the United States and our citizens be served by joining GATT and the World Trade Organization? When we clear away all the politics and pontification, facts and figures, television ads and radio sound bites, pros and cons, does this agreement result in a net win or net loss for the American people?

In my judgment, passage of the Uruguay round will ultimately result in a new loss for America, and should not be approved until significant changes are made. Despite the fast-track authorization, we shouldn't be forced to hurry this massive agreement through a lame duck session with inadequate consideration, deliberation, or debate. Most importantly, this agreement should not be approved for the sake and appearance of free trade at all costs. I fear GATT will lead to a "hocus-pocus trade trap" that will be difficult to escape.

At a time when we are finally beginning to deal with our massive budget deficits, it would be unwise to put our stamp of approval on an agreement that even its supporters say will increase the deficit in the short-term. Reduced tariffs will necessarily result in a loss of revenue, not all of which is offset by the GATT implementing legislation.

Arguments that GATT's passage will increase revenues and reduce deficits remind me of the same arguments that were made regarding supply-side tax cuts in 1981, when income taxes were reduced approximately 30 percent over a 3-year period. Instead, we saw our deficits soar.

I was strongly opposed to NAFTA because it would create relocation incentives which would cause severe job losses in this country, particularly in labor-intensive manufacturing industries. The major relocation incentive is cheap labor. GATT will allow products to come into this country from low-wage paying countries—6 to 10 times lower than American wages. It will be difficult, if not impossible, for such labor-intensive manufacturing firms to compete with Mexican- or Asian-made products. This means that more and more American industries will move to Mexico or to other low-wage countries. Let me illustrate with a specific labor-intensive industry that provides a tremendous number of jobs in the United States, particularly in the Southeast. I'm talking about the textile and wearing apparel industries.

GATT does away with multifiber arrangements, which are the sets of international agreements that have regulated the textile and apparel trade for the last 30 years. Cheaper labor caused the relocation of the wearing apparel industry from New England and New York to the Southeast several decades ago. Now, with the phase out of the multifiber agreements, we will see an exodus of these jobs to nearby countries like Mexico. The resulting competition from abroad under GATT will provide a powerful additional incentive to relocate.

In Alabama, there are over 100,000 jobs in the textile industry, which make up approximately 35 to 40 percent of all its manufacturing jobs. Most of these jobs are in the cut and sew wearing apparel operations. Recently, I went to an area of my State hit by severe unemployment and visited a sewing company whose employees were almost entirely women. Their wages were based on an incentive basis—a piece basis—but they were relatively substantial. These are the kind of hard-working people who will be hurt by companies such as this relocating to take advantage of lower wages and standards elsewhere.

What nation has had the best trade policy with respect to its citizens over the last 30 years? If we stop and think the obvious answer is Japan. And what has been its policy? Japan has taken care of certain industries, and should serve as an example of a country that has prospered through its trade policies. We can and should operate according to free-trade principles, but this should not preclude us from adopting certain needed protection measures that would be helpful to our economic

well-being as we look to the 21st century. I believe the United States would have a much better trade policy if we followed many of Japan's historic practices.

Moreover, we will not be able to eliminate some of the most adversarial trade practices through the GATT system. The nontariff barriers they use, the extended financing possible in the cartels of Japan, China, and Europe will not be eliminated under mechanisms provided by WTO.

I was in England a couple of years ago, where I met with the Minister at that time who formulated economic policy, Mr. Lamont. He had just announced the day before that he was lowering interest rates. He had also called for a 40-percent income tax depreciation deduction in the first year for all new equipment and buildings. It was, basically, similar to our investment tax credit.

I went on to ask Mr. Lamont if that would not spur England's economy, since it was comparable to a 12- to 15-percent investment tax credit in the United States. I was surprised when he replied that the reduction would not have much effect since England had ceased to be a manufacturing country, with only 15 percent of its jobs in the manufacturing sector. Many members of the European common market have lost their manufacturing jobs to low-wage countries. Look at the unemployment rates of the major European nations: The average unemployment rate is in the neighborhood of 11 to 16 percent.

I opposed NAFTA because I was convinced that labor-intensive industries would move to Mexico, where there are many incentives to relocate, such as an extremely low-minimum wage, few OSHA standards, practically no workman's compensation programs, weak unemployment compensation programs, and lax clean air regulations. Under GATT, another relocation incentive will be added due to the increased competition in the textile and wearing apparel industries from Pacific Rim countries like Malaysia, Taiwan, and Hong Kong who will be able to sell in United States markets. To remain competitive, our companies will be forced to go to Mexico or other low-wage countries. Many will relocate, and jobs will be lost. GATT will be like rubbing salt into the wounds already suffered by American workers from NAFTA's passage.

The Uruguay round establishes a powerful new bureaucracy in Geneva, Switzerland known as the World Trade Organization [WTO], one of whose functions will be to adjudicate trade disputes between member nations who are signatories to the new world trading pact. The provisions of GATT notwithstanding, I have come to the conclusion that the WTO is not in the best sovereign interests of the United States or its citizens.

The WTO will operate much like the United Nations, except it will do so in the area of international trade. It will have the power to establish, administer, and enforce global trade rules and will be governed by a ministerial conference, where each nation will have only one vote.

Approximately 124 nations could belong to the WTO, and my research reveals that it will be dominated by less-developed nations, much like the U.N. General Assembly is heavily weighted toward such countries. Under the new WTO, each nation, no matter how large or small, will have one vote. The WTO agreement does not have a weighted voting arrangement based on a country's financial contribution to the organization.

Conspicuously absent is the ability of any nation to cast a veto vote, which is distinctly different from the parallel situation at the United Nations where the security council provides a forum for a veto vote. This "one vote per country/no veto" policy will clearly put the United States at a voting disadvantage in the ministerial conference, which is analogous to the U.N. General Assembly.

When a country finds itself in a dispute with another WTO member, a dispute settlement body [DCB] will administer all dispute proceedings including establishing panels which hear disputes, adopting panel and appellate decisions, monitoring the implementation of these decisions, and authorizing retaliatory measures. The panels, which hear initial disputes, will consist of three or five citizens of nondisputing countries and appeals panels will consist of seven citizens of nondisputing countries. The decisions of these panelists can be rejected by the disputing parties only for compelling reasons which is a term not well-defined under this GATT Agreement.

Where a panel makes a finding that a country's laws or regulations—Federal or State, as the case might be—are inconsistent with the GATT Agreement, the panel will recommend that the losing party "bring the measure into conformity with that agreement." A losing party cannot veto a panel decision as it currently can under existing GATT procedures.

A party which loses a decision can choose to ignore it, but the WTO could impose fines or allow the winning party to retaliate. There is no question in my mind, if the United States were to lose a decision, there would be great pressure on our country to bring a violative law or regulation into compliance with our obligations under GATT.

It is true that panel decisions will have no direct legal effect on Federal or State laws and regulations—only Congress and the executive branch can change laws and regulations. However, the decisions of these foreign panels will, if we are on the losing side, have an indirect effect on our sovereign laws and regulations. Whether direct or indirect the ultimate result is the same.

In reviewing the agreement which establishes the WTO, I looked at the "miscellaneous provisions" section and found the following language: "Each member shall ensure the conformity of its laws, regulations and administrative procedures with its obligation as provided in the annexed agreements."

Thus, by joining the WTO, the United States under this provision agrees to change its laws, regulations, and administrative procedures to conform to the obligations of the new trading agreement. It is the WTO who will give the final say as to whether these obligations have been met.

Does the cumulative effect of the dispute settlement procedures of the WTO have, at the least, "de minimus" implications on U.S. sovereignty? I think the short answer is "yes." Remember, if a WTO panel or appellate body decision goes against the United States, the United States could decide to ignore a panel decision. However, the WTO could then impose fines or allow the aggrieved party to retaliate against the United States. Under current GATT policy, this cannot happen. This new arrangement could infringe on sovereign U.S. interests.

There is no doubt in my mind that at the ministerial level, the "one vote per nation" rule will substantially increase power among the smaller, less-developed nations. Over 18 member nations with populations of less than 1 million people will have the same weighted vote as the United States, Canada, Germany, Japan, and the other major trading partners. It should be pointed out that developing nations will constitute 83 percent of the votes of the WTO. Further, each nation of the European Union will have one vote, and history has shown that trade relations with our European allies have not always been smooth.

GATT will also put State laws at risk. If a State law is successfully challenged by a member nation, the United States cannot simply veto the adverse ruling as it has done in the past. Under the new GATT rules, the executive branch must force the State to change or repeal its offending law or the United States will be subject to economic sanctions. True, this GATT cannot make us change our laws if we don't choose to, but the penalty for ignoring an adverse ruling could be very expensive. That is the point of the sanctions provision. It is intended to make it too expensive for us to ignore an adverse ruling.

The deck is stacked against the United States in light of the fact that we will have no veto power in the ministerial conference should the Third World or the European Union choose to try and kick us around in the World Trade Organization. We can no longer veto a

panel decision in a trade dispute proceeding further eroding our sovereign interests.

Article XI will also allow the lesser developed nations to exempt themselves from many market-opening requirements due to their status. Article XI states as follows: "The least developed countries recognized as such by the United Nations will only be required to undertake commitments and concessions to the extent consistent with their individual development, financial, and trade needs or their administrative and institutional capabilities." This is a loophole of monumental proportions for developing nations that will put us at a huge disadvantage in terms of trade.

Another issue which has been raised in connection to the WTO is whether joining might force the United States to lower standards adopted by the Federal and State governments in their consumer, environmental, and work safety laws. Again, one only has to look at the textual language of the "miscellaneous provisions" section, which states: "Each member shall ensure the conformity of its laws, regulation, and administrative procedures with its obligation as provided in the annexed agreements."

The WTO will be the forum where member nations can challenge consumer, environmental, and worker safety laws as "unfair trade barriers" because such laws containing higher standards can and do often restrict trade. If our laws are more stringent than say those of Malaysia, Singapore, or Taiwan, the United States could find itself frequently under attack in the WTO. A panel decision declaring U.S. laws to be "unfair trade barriers" will put the United States in a bind to change those laws, or face potentially heavy fines, or if we choose to ignore a panel decision, subject the United States to retaliatory retribution from the complaining party.

Remember, under the current GATT structure, we can veto a panel decision. U.S. sovereignty is not threatened. I believe our sovereignty will be threatened under this new system of the WTO. We should reject membership in the WTO until changes are made regarding voting procedures and sovereignty provisions are dramatically altered to protect the interests of the United States and the American people.

Regardless of how one feels about the World Trade Organization and the issues of sovereignty it raises, we should all be disturbed at the procedure under which this agreement is being debated and considered. In my judgment, WTO membership should be considered as treaty ratification.

According to Laurence H. Tribe, Constitutional Law Professor at Harvard, "If there is any category of international agreement or accord that must surely be submitted to the Senate for approval under the usually rigorous two-thirds rule of the treaty clause, that category must include agreements like the Uruguay round, which represents not merely a traditional trade agreement but a significant restructuring of the power alignment between the national government and the States."

"It's hard to imagine what kind of agreement must be regarded as a treaty, and subjected to State ratification as such through the Senate, if the Uruguay round not be so regarded. However inconvenient, the structural safeguard of the constitution must not be ignored."

Article II, section 2, clause 2 of the U.S. Constitution says that the power to make treaties is expressly conditioned on the requirement that "two-thirds of the Senators present concur." If America's membership in the WTO doesn't require a treaty vote, what does?

The United States joined the United Nations by treaty. We joined NATO by treaty. And when the United States rejected the International Trade Organization, the 1947 version of WTO, it rejected such membership as a treaty. Every other democratic country is considering the WTO as a treaty.

The issue of "downward harmonization" of laws is also of grave concern to me. Under GATT, almost any of our critical food safety or environmental laws can be challenged by another country. In the past, the Marine Mammal Protection Act, which protects dolphins from needless slaughter by the tuna industry, and our CAFE standards, which are in place to promote cleaner and healthier air, have been challenged. Other countries have also targeted the U.S. new, clearer nutritional labels and California's strict limits on lead in wine as "barriers to trade."

Under GATT, pressure will be great to scale back our laws so that they are in harmony with weaker international standards, thereby creating a "lowest common denominator" approach to trade legislation and a significant relaxation of important social safeguards.

Membership in WTO would also undermine our food safety, consumer safety, and environmental protections by limiting the goals the United States may pursue in its standard, for instance by restricting what issues would be considered "legitimate" grounds for regulation; by limiting the means the United States may use to promote GATT-allowable health, safety, and environmental goals with the requirement that such means be "least trade restrictive," regardless of political feasibility; by requiring the United States to accept imports that do not meet our standards, where they satisfy different, but "equivalent," standards. This requirement invites wholesale circumvention of U.S. law; and by specific statutory changes in the GATT implementing legislation to existing U.S. standards for poultry and meat imports.

According to William Lovett, professor of law and economics at Tulane University Law School, even the gains for U.S. agriculture are weak and largely illusory. He writes that "great hopes for U.S. gains in agriculture exports were raised by U.S. Trade Representative Clayton Yeuter in the mid-1980's when the Uruguay round was launched. The cairns group—14 other agricultural exporting countries—were hopeful, too. But European Community resistance was very strong, and the resulting Blair House accords, December 1992, into the GATT 1994 deal provided only modest gains. The EC conceded only a 21-percent reduction in key agricultural subsidies over 6 years. No surprise," Lovett continues, "the majority of EC countries have very powerful farm lobbies."

In addition, the GATT 1994 deal provided strong preferences for developing country agriculture, their exports, and broad freedom for LDC farm subsidies. For these reason, U.S. agriculture is a substantial net loser under the GATT 1994 deal." Also, section 22 is abolished, but concessions were given in tariffication.

There are also concerns surrounding the agreement reached between the administration and Senator DOLE last week with regard to the appeals process and the ability of the U.S. to withdraw from WTO. According to that agreement, the administration will support legislation next year to establish a WTO dispute settlement review commission. The Commission would consist of 5 senior Federal appellate judges, appointed by the President in consultation with the leadership of both Houses and chairmen and ranking Members of the Ways and Means and Finance Committees.

This panel will review all final WTO dispute settlement reports adverse to the United States to determine whether the WTO panel exceeded its authority or acted outside the scope of the agreement. Following the issuance of any affirmative determination by the Commission, any Member of each House would be able to introduce a joint resolution calling on the President to negotiate new dispute settlement rules that would address and correct the problem identified by the Commission.

If there are 3 affirmative determinations in any 5-year period, any Member of each House may introduce a joint resolution to disapprove U.S. participation in the WTO. If the resolution is enacted by Congress and signed by the President, the United States would commence withdrawal from the WTO Agreement. This is a good provision that improves the appellate process

within WTO, but it leaves some questions unanswered.

What happens if we have a pure free-trade President who vetos the joint resolution? Can we count on the review commission to be sufficiently knowledgeable on trade issues to make the proper recommendation to Congress? There is a great reluctance on the part of constructionist judges to become involved in proposing legislation. Besides, the proceedings under the WTO are secret and confidential. I am concerned that there is enough vagueness and uncertainty regarding the appeals process that it will ultimately work to our disadvantage. Under the current GATT rules, any member nation can withdraw with 6 months notice, at the discretion of its head of state. Even under the new agreement with Senator DOLE, the new GATT provisions make withdrawal more time-consuming, arduous, and elusive.

The bottom line is that American workers, U.S. trade, manufacturing, and industrial interests are not well served by the 1994 Uruguay round deal as presently before us. All the issues and provisions I have outlined here—the revenue loss, the loss of jobs, the inability to sufficiently combat unfair trade practices, the operations of the WTO, the weakening of our laws, the losses in agriculture, and others—together justify rejection of the proposed 1994 GATT and its proposed world trade organization.

I don't oppose free trade. I am for free trade. I am for a version of GATT. But I do not favor free trade if it means sacrificing trade policies that serve our best interests. Furthermore, no trade agreement must even threaten our sovereignty or reduce our standards to the lowest common denominator. Our decision should be clear: The Uruguay round before us does not serve our best interests, and should be rejected.

EXHIBIT 1

Madison, AL, November 21, 1994.

Hon. Senator HOWELL HEFLIN,
Tuscumbia, AL

DEAR SENATOR HEFLIN: I vote in all elections, as does my husband. I am a taxpaying contributing member of society, and my chief concern is the pending GATT/WTO bill. While I am certainly in favor of expanding export and import opportunities for the U.S., it appears that doing this under the stipulation of GATT would spiral our nation into economic disaster. This bill promotes a Rousseaunian utopian globalism, lessens America's self-determination for a host of vital issues, and moreover, places unprecedented and burgeoning national debt—adding $31 Billion!!!—on all taxpaying American citizens (excluding, of course, the money aristocracy who are able to insulate themselves by becoming trans-national citizens). I strongly urge you to allow yourselves more time to carefully study possible ramifications yet unanticipated. It is abominable that due to fast track status, you are not even engaging in a formal debate process. No one as yet fully understands this bill and its effects. If the WTO is going to supersede any U.S. laws that contravene it, why is it a matter for Congress to decide by a majority vote? Shouldn't it be subjected to the treaty process, requiring approval by two-thirds of the Senate? Since the intense negotiation of GATT under three presidential administrations has had every involvement in getting and spending, would not the House of Representatives be the rightful evaluators of its own handiwork? Since we, the United States have been the primary plaintiff in the trade wars of the past generation of grievances against Japan, France, Italy, Germany, and China, what reasoning person would think that the proposed multi-national parliamentary decision-rendering process is going to benefit America consistently? At very least extend your time-frame to the second-quarter of 1995 before the vote must be rendered. I find Newt Gingrich's recent declaration of being deeply committed to its passage revolting and I am outraged that he touts the weak explanation that it is only partisan opposition tactics by democrat Senator Hollings to derail this bill. Why aren't you bringing forth this issue to a public debate forum for all Americans to be given an opportunity to appreciate its merits?

Please work to ensure that colleagues of the 1993/94 Congress who are now voted out and may be taking a corporate lobbyist job which poses conflict of interest, face retribution if they do not decline to vote on this issue. I have supported you by my vote in the past. I consider the proposed GATT/WTO to be a defining one and will only continue to support those politicians who have the best interests of their constituents in mind and this bill in my opinion certainly does not seem to be in our best interest! I and other constituents will be screaming about the many GATT-induced stresses to come if it is passed. As one of your constituents, I implore you to vote NO on GATT/WTO, and if you don't, we will be mad as hell at the polls next time.

Firstly, how will we pay for it? (I have studied the September 14 published breakdown of items both the Senate and House have agreed to in their proposed funding—which only amounts to just $5.7 million out of the total $43 billion to be lost in decreased tariff revenues—even on a five-year payment schedule!) Furthermore, with >$600 billion of our national debt being owned by foreign interests, how does this agreement provide US infrastructure with which we will eventually pay this debt? The following is a brief outline of GATT/WTO's seemingly inevitable alarming ramifications:

Prosperous nations produce actual widgets—so much of U.S. domestic production has ceased or is increasingly in jeopardy. I have read gripping accounts of this phenomena in the summaries of a scholarly work Magaziner and Patinkin produced in The Silent War (1989, Random House, New York). One finds a litany of justification for governments fostering—not undermining—a highly-technical and well-educated labor force, and consequently, a higher-caliber base citizenry. An ever-rising percentage of the U.S. economic pie belongs to service-oriented jobs—which certainly proved economically unsound for the United Kingdom over the last several decades. National wealth is best created with raw materials manufactured into complex products. Included in U.S. export figures is the sum value of disassembled-assembled American factories exported! I submit to you, sir, that face-value representation does indeed not tell of the more accurate reality of the trade deficit. Furthermore, the chief product among our exports to Mexico is not indicative of a highly-skilled labor force and industry fashioning raw materials into technical, high-performance devices, but rather, it is pet food! Did you and your colleagues know this?

Our former military superiority is now dangerously subjugated to foreign production and ownership of its high technology components. (I cite the study done revealing the incident of grossly-delayed availability of vital Japanese-owned components for high-tech equipment used in the Gulf Storm campaign.) This was discussed in a C-SPAN program in the post-campaign 'lessons learned' evaluations. Somewhere within these first two points clearly belongs also the argument in favor of strong protection for intellectual property rights—which the current GATT sorely lacks.

Our national wealth is pouring out of our own economic system ($1.4 Trillion trade deficit since 1988 Uruguay Round, nearly order of magnitude rates at which this deficit has climbed annually—please feel free to substantiate any dispute in your response.) Many third world nations have different foresight and fiscal policies to guard their own abilities to generate capital and thereby increasingly create national wealth which remains in their country.

The Cargolux jumbo jet now doubling its shipment frequency between Huntsville and Luxembourg carrying by business activity percent to Alabama (not from Alabama): North America, 27%; Asia, 23%; Europe, 23%; Central & South America, 15%; Africa, 11%; and Australia, 1%. It would be interesting to see disclosed the nature of any goods presumably produced in Alabama being exported; and also just how much of its weight or wealth—whichever the term 'business activity' used in the article represents. This question reflects The Huntsville Times, September 11, 1994 article, "Global Growth." The author has not responded to my three inquiries. I am concerned about the compositional product of U.S. exports, so that advanced technology in a widely-based labor pool has been utilized to produce commodities, not the export products such as the $2.00 trees that comprise our allegedly satisfactory trade balance figures wherein minimal human skill has been involved in its "production." I hear and read a lot of empty rhetoric about desired policies to foster the growth of labor skills both in the Southeast and nationally. If you share this vision, where is the muscle behind any intent to implement upgrading a labor force to any great significance? Will the alleged new jobs to be created consist primarily of distribution and retail industry jobs that will service the alleged plethora of consumers who will presumably have an increased share of the wealth available for discretionary spending? There is a fundamental flaw in allowing consumer-driven ideology to rule: Such a consumer-driven economy is counter-productive to the manifestations of the quality of life our culture has provided under the increasingly obsolete notion of a labor-standard-protected work force in many of the targeted producing foreign countries. Besides, the latest glowing figures pronouncing such a healthy economy always measure the consumer index perspective—not that of production!

Transnational companies answer to NO ONE—it is self-evident that they will enjoy frightful impunity of any legislative policies that the GATT/WTO agenda would hope to enforce. They will thereby definitely not bring about a more humanitarian, rising tide elevation of worker conditions and fair practices. Free and fair trade, a mantra being

used to bring about a new world order to the demise of Americans' personal freedom and living standards as we know them today.

My basic liberty to buy food and other products deemed safe by our FDA is already shrouded in unknown foreign growers or production sources with inevitably inferior growing or assembly standards regarding pesticides, existing soil contaminants, substandard components (compositional screws that readily break), etc. The many countries part of GATT/WTO would of course attempt to declare our FDA and National Product Safety Commission standards too restrictive and unfair: the penalties inflicted on the U.S. are heavy and far-reaching according to the GATT/WTO document, exacting fines permanently '* * * until the unfair practice is corrected.' And further pertinent to inflicting substandard health and safety practices, what about the future regulation of now foreign-owned or pending for sale American properties that could potentially be used as toxic dumping sites for global radioactive waste? It is my understanding that the US taxpayer would bear severe penalties for refusal to comply!

Huntsville's Dunlop Corporation plant, now owned by the Japanese, provides more than 1,500 jobs to employees who on average earn $16.55. They watch their benefits dwindling with each dispute—this past September narrowly escaping closure. Could we expect to see Mexicans imported to fill those Dunlop slots the next time an irreconcilable dispute arises? Public dole-provided career counseling will not create 1,500 positions for those workers to fill. I'd like to see some economic data of the rate at which such factories American, and foreign-owned with American employees, are succumbing to foreign labor practices. (Did you also know that huge corporate profit figures from going to offshore manufacturing are included in export figures as well?) I'd like to see explicit data from Alabama State reports of the types of jobs which are said to be created from all this positive NAFTA spin-off. It is clear that PACs who desire the currently-proposed GATT legislation are trying to ultimately promote lower-cost labor for little benefit to U.S. worker-displaced citizenry (the bulk of their "customers") as a whole. How will congressional elected officials answer to the apparent failure to nurture a vital technically skilled labor force, and the extraordinary negative social and economic consequences that will continue to ensue?

NAFTA's passage hugely-increased illicit drug traffic volume from Central America * * *. One can easily project what will happen under GATT.

Please feel free to offer us a detailed, within budget solution to the rampant unemployment we are already suffering. Insiders at our local Alabama unemployment office declare that it is a blatant manipulation of figures which is creating the myth of a rebounding economy. Namely, unemployed persons not successful in getting a job after six months are simply dropped from the rolls and are therefore not counted as unemployed. I don't need to expound upon the intangible (or tangible, depending upon one's perspective) effects such as family and community deterioration under financial duress, rising crime, and ripple effects to all other associated businesses in unhealthy economic times. I do, however, expect Congress to address these realities, for they are universal concerns of increasing numbers of Americans—except perhaps the small percentage of powerful groups whose interests lie foremostly in immediate cheap labor.

We and our community of working middle-class parents are increasingly stressed about our abilities to offer an optimal upbringing for children who hopefully will be able to obtain a quality high-skill oriented education. The cost of higher education is obviously an issue as inflation rages on. It will really be an awful issue when GATT-induced inflation removes this dream even further from us. As you know, since the days you enjoyed in your parents' lifetime, the tax (and "fees") levied were the negligible ~8% of total income—quite different from the ~60% we struggle under today. We watch the trends of rising numbers of random crimes, company layoffs, the absurd GATT notion of an American consumer-driven economy in a global economy when jobs and net incomes are evaporating, grossly inadequate public school systems with their poor academic performance standards, and their lack of discipline and instruction void of any values. We stay concerned that people like us are not too far removed from crumbling under bleak financial pressures. We and many families we know have already eliminated from our budgets the vacation extras, dining-out expenses, many other discretionary entertainment or household expenses, and even more retail purchases (I consistently go the second-hand shop or garage sale route for complete clothing and educational toy needs—at least 95% of all such purchases), and some acquaintances have completely eliminated savings for retirement provisions. Footing this GATT/WTO bill will wreak financial havoc. While you're at it, for your information, look at some industry statistics of just how well these second-hand institutions are faring and flourishing! And then figure out just how much money American consumers and displaced workers will be spending on the flood of imports to the U.S. (or the pitiful few pennies of savings on the influx of foreign-manufactured goods passed on to the consumer enclosed in a 'Made in the U.S.A.' box)?

To further endorse this bill or worse, vote to pass it, is foolish and deceptive unless you are remarkably well informed (Can you look into your crystal ball with no trepidation and in good conscience if this is passed?) You and your constituents should have promoted better public access to more detailed information of its specific nature and ramifications. It is certainly egregious that status-quo media are grossly neglecting to cover this issue, and scantily offer slanted glamorizing views (5 favorable articles to 1 negative article by analysis cited in an early October Congressional committee hearing, despite renouncing negative challenge on the part of numerous congressional committee participants) on GATT/WTO legislation (e.g. Washington Post and its covert pork payoffs for licensing fees). To implement such a pervasive agreement at a time of already perilous domestic manufacturing woes is irresponsible: I implore you to vote to delay passing this agreement as it is now and plan to more carefully evaluate and rewrite it, work to deem it treaty status or implement whatever framework it would take to give the U.S. more voting power as disputes arise. I might remind you that your position exists due to the taxes my family and I pay to employ you (albeit we watch with great disgust the increasing percent financing of public officials' campaigns by way of PACs and wonder to what extent a pro GATT vote represents the myopic interests of multi-national CEOs). I am college-degreed, learned a foreign language, studied abroad six years, and formed my views from an international perspective but also as a patriotic American. The current debate surrounding GATT/WTO will hugely define institutions of the next century as we continue well on the road in this post Cold War Era. I'm trying very not to be overly trade projectionist, and fundamentally firmly believe that global trade is a good thing, and that free and fair enterprise is best—if that and self determination in a post Cold War Era that has evolved into a Trade War Era are not mutually incompatible. Even though NAFTA is insignificant compared to GATT, it, however, is the only model we can look to for projecting the ensuing effects of an implemented GATT. . . . It indeed appears to be catastrophic. Please be honest when you interpret the resultant findings thus far, and convince the taxpayers otherwise if that is the case.

Again, as one of your constituents, I implore you to vote no on GATT/WTO.

CAROL E. JOHNSON.

P.S. By the way, because I so highly value the C-SPAN information I regularly enjoy, and would like to see that my tax dollars support this network if the cable companies' public service broadcasts of congressional hearings and other pertinent events were ever to be threatened. It is one way I experience a sense of empowerment of what our public servants do in Washington. A C-SPAN journalist round of media pundits recently predicted it will eventually be discontinued due to lack of revenues generated—such as the ever-expanding shopping channels generate! If C-SPAN is discontinued, I will be outraged at the default message that what goes on in Washington is rendered deliberately less accessible to the rest of the nation.

EXHIBIT 2

OUT OF THE HANDS OF BABES

[From the Times Daily, Nov. 26, 1994]

(By Anna Quindlen)

Would you buy a rug if you knew that it had been woven in India by 10-year-olds beaten if they didn't work fast enough? Would you wear a shirt if it had been sewn by a 9-year-old locked into a factory in Bangladesh until production quotas for the day had been met?

Would you eat sardines if the cans had been filled by 12-year-old Filipino children sold into bonded servitude?

The General Agreement on Tariffs and Trade, known as GATT, is the most sweeping free-trade pact in history. But like many agreements among different nations with different agendas, much has been lost in the translation. One of the losses in the GATT negotiations was the right of children not to be exploited, overworked and underpaid as a source of cheap labor around the world.

From the children who make carpets in India, sometimes 16 hours a day, seven days a week, to those who sew in Bangladesh for as little as five cents an hour, the International Labor Organization estimates that there may be as many as 200 million child laborers worldwide. Some are working in sweatshops that contract to make American goods.

In testimony before the Senate earlier this year, a 15-year-old from Honduras told of girls working up to 80 hours a week at a factory manufacturing Liz Claiborne sweaters.

Child labor is the dirty little secret of foreign imports. Sen. Tom Harkin, who wants to outlaw U.S. imports of all products made by children under age 15, says the problem is that Americans don't know that some of what they buy, including toys for their own kids, has been manufactured by children

working the kind of hours, under the kind of conditions, that many still associate with the darkest days of the Industrial Revolution.

"You give me any cross-section of 100 Americans," says the senator, "people from any income level, any area of the country, and I think the reaction would be overwhelmingly against buying the products."

Harkin is a voice crying in the wilderness, and the wilderness is the guided thicket of free trade.

Harkin's bill to keep products made with child labor out of the United States would probably be a violation of GATT, which provides only for those restrictions spelled out in the trade pact.

During various GATT negotiations, developing countries successfully argued against child labor provisions, insisting that children have always worked in their cultures, that to try to interfere with child labor is protectionist and punitive when a child may be the only wage-earner in a desperately poor family.

But the tradition of children helping on small farms and the innovation of locking them into a hotbox of a factory for 14 hours a day are worlds apart. The reason they may be the only wage-earner in some areas is because adult workers have been laid off in favor of children, who are infinitely more exploitable and provide bigger profits for prosperous factory owners. And nations that really want to compete in a global economy will educate their kids, not work them half to death before they've even reached puberty.

After the bad publicity of the Senate hearings, Liz Claiborne announced that it was ditching the Honduran contractor, then decided instead it would "work with the facility" to "meet our human rights standards."

A few American companies have been ahead of the curve; Levi Strauss and Reebok, for instance, had already demanded that their contractors overseas hire only workers over age 14. In India a consortium of carpet makers has started an industry campaign that tags those products made without child labor.

That's the least Americans deserve, some assurance that what they buy has not been manufactured by kids.

Amid attempts to protect elephants from ivory poachers and dolphins from tuna nets, the rights of children go remarkably unremarked. "This is the last vestige of slavery sanctioned in the world today," said Harkin.

If GATT passes, an opportunity to end these children's servitude will have been shunted aside for the alleged bonanza of free trade. But consumers can vote with their credit cards only if products are labeled.

At the very least the slogan "Not Manufactured with Child Labor" should shame those companies not in a position to affix it to their products.

Mr. CHAFEE. Mr. President, I yield 15 minutes to the distinguished Senator from Oklahoma.

Mr. INHOFE. I thank the Senator very much for yielding. Let me respectfully say to the distinguished Senator from Alabama that I agree with many of his conclusions, however, for different reasons. I might also respectfully suggest a second viewpoint that our rising deficits were due not to the reduction in the income tax rates but instead to a Congress that spends too much money.

Mr. President, our Nation's decision on the GATT agreement is too important to be decided by a lame duck Congress. The GATT accord, along with implementing legislation, will affect economic and foreign policy not just for another year or another 2 or 3 years, but for decades to come. We should postpone this vote until next year and let the newly-elected Congress, the Congress which by definition is closer to the people, make this decision. This is what the people want. This is what common sense dictates.

There is a point that really has not been addressed here. If we are serious about ending public cynicism in Government, we should stop the practice of railroading through complicated legislation which few, if any, read and probably fewer understand. We can begin by taking the time to allow the new Congress to carefully consider all the ramifications of the GATT agreement.

I do not mean to be presumptuous, Mr. President, but as the newest Member of this body, I am in a unique position. I come here with the winds of public opinion behind me. The public clearly does not have a formed consensus on GATT because many questions are still to be answered. I think the general public does have an opinion on free trade, and I agree with that opinion, as I am a free trader. But they have not been convinced that this GATT legislation is the best way to serve this cause. What the public wants is an end to the power plays, the back room deals, and an end to business as usual, where legislation is passed sight unseen on the basis of pleasing labels, fancy photo ops, and soothing speeches. The crime bill is a good recent example. I was serving in the other body when that came up for consideration. It was August 21, on a Sunday afternoon, and this bill that was 2 inches thick had been printed only for 2 hours and it passed and there was not one Member of Congress that had read that bill, and I suspect the same thing was true over here.

The public wants major decisions like this to be made on the basis of substance. They know that the devil is in the details. They expect their representatives to exercise judgment based not just on labels but on fine print as well. These were critical underlying issues in the election campaign just concluded. I know this because I just concluded a very active, aggressive, assertive and challenging race. The people want open Government; the people want decisions to be made outside of institutional barriers, institutional protections that protect the people here, and let the people at home know exactly what is going on. We had such an institutional problem in the other body, which we corrected, and it is something that has had a major impact on the elections of November 8. We truly had a wakeup call on November 8. I think we need to be listening to that wakeup call.

Mr. President, we need more time to consider the GATT details and make that judgment. Again, it should be voted on by the newly-elected Congress which has been out there on the firing line talking not to bureaucrats, not to the insiders, but to real people.

The process by which this GATT legislation was brought before this body raises many questions. The administration was given fast-track authority to submit an unamendable bill with two implicit understandings. First, it was understood that the implementing bill would contain only what was required by the GATT agreement. Second, it was understood that Congress would have a full 45 days to consider the bill. What actually happened? The administration did not submit this bill until very shortly before the Congress' scheduled adjournment in October. In fact, it was less than 10 days before, not 45 days. Fortunately, that power play was rejected, forcing this lame duck session. But the question is: Why did they want to rush the bill through so fast? Are they afraid of more detailed scrutiny? It sounds to me like the pork barrel crime bill. In fact, the administration produced a much broader bill containing many provisions not directly required by the GATT agreement.

These are among the provisions that have caused the most concern.

For example, as recently reported, two major media companies, the Washington Post and the Atlanta Constitution, would receive special benefits worth hundreds of millions of dollars as a result of the bill. According to the Wall Street Journal a provision in the bill grants a special discount to the Post and the Constitution on license fees owed the Federal Government under the so-called pioneer preferences in the telecommunications section.

This provision is totally nongermane to the GATT agreement and it has nothing to do with free trade.

Another much more serious example is the provision that changes the rules relating to patents and intellectual property rights.

I know something about property rights. I came back from a very aggressive campaign, as I mentioned before, and when I talked to farmers throughout America, they are as threatened, as farmers, about the 1995 farm bill and all the price supports and these things as they are to what is happening to property rights, the fact the bureaucracy is taking away the value of these rights. Yes, these are property rights but not intellectual property rights. They are all the same and equally protected by the 14th amendment, or should be.

Do the new rules protect our people and private property rights? They are taken for granted. The administration

says yes, and inventors and others concerned about the issue say no.

In fact, I had my first visitors as the newest Member of this body. They came yesterday, and they are from Oklahoma. They were inventors, and they came in very much concerned that the changes in this bill will have the effect of undermining the rights to intellectual property affecting billions of dollars in our ability to effectively compete in the high-tech environment of the future.

They asked me, what do these patent changes have to do with enhancing free trade anyway? What is in the GATT agreement itself that requires these changes?

I cannot answer them. I do not know. I do not have the answer to that. I believe there are serious problems with legislation and those provisions which are not required by GATT. Some are little more than apparent payoffs and sweetheart deals. Others are more sinister and may serve to enrich multinational corporations at the expense of the American people. But the bottom line is this: The train is going too fast. Let us slow it down, weed out the sweetheart deals and debate this in the new Congress with Representatives and Senators who are accountable to the people. I do not think that is too much to ask.

The PRESIDING OFFICER (Mr. BINGAMAN). Who yields time?

Mr. MOYNIHAN. Mr. President, the distinguished and newly victorious Senator from California would like 15 minutes, and I am happy to yield.

The PRESIDING OFFICER. The Senator from California is recognized.

Mrs. FEINSTEIN. Mr. President, thank you very much, and I thank the distinguished Senator from New York for this opportunity.

Mr. President, I believe that GATT is a win for this nation. I believe it is a win for manufacturing and agriculture, and I believe it is a win for the State of California.

Tomorrow Congress has the chance to pass the equivalent of one of the largest tax cuts in history. Many people do not realize this. GATT, the General Agreement on Tariffs and Trade, reduces what are known as border taxes, or tariffs, and they reduce them worldwide by one-third. This amounts to a global tax or tariff cut of $744 billion.

GATT AND THE U.S. ECONOMY

What does this mean for the U.S. economy? The economic benefits for U.S. workers, consumers and businesses are many.

One, producers will benefit from cuts in foreign tariffs. They will be able to sell more of their products abroad because these products will no longer face a whole panoply of high tariffs, quotas, hidden and not so hidden restrictions that they encounter in many countries today.

Two, despite having the lowest tariffs in the world, America still has tariffs, and these will go down under GATT. So, many consumers will benefit because of lower prices on imports which lower the costs of the products they buy.

Three, the GATT agreement will increase the U.S. gross domestic product by $150 billion when fully implemented. So, what we produce in services and products today will increase by $150 billion over 10 years.

Four, GATT will open markets, foreign markets, that have been effectively closed to U.S. exporters, such as rice, beef, citrus, oilseeds, pharmaceuticals and construction equipment.

Five, GATT will protect those who innovate and take risks by protecting their patents and copyrights abroad.

And, finally, GATT ensures that all 125 member countries obey the same trade rules, even if they have not signed agreements from previous rounds. This eliminates the tortuous "free rider" problem, where a nation gets the benefits but does not play by the same rules of open trade.

GATT AND THE CALIFORNIA ECONOMY

Let me talk about GATT and California because no State stands to benefit more from this accord than California.

Today California accounts for 15 percent of U.S. exports, and the jobs and economic activity these exports create have grown significantly over the past few years.

Nearly 70 billion dollars worth of California goods were exported abroad last year. That is an increase of 46 percent from just 5 years ago.

The manufacture, production, and transportation of California exports accounts for 1.8 million jobs in the State today, nearly 13 percent of California's total employment.

California's economic future is directly tied to increased foreign trade. In 1987, the last year for which data are available, California had 22,265 exporting establishments. In fact, we led the Nation in the number of business establishments that export.

California's strong export-based economy demonstrates that it will gain disproportionately from enactment of this trade agreement. If GATT is rejected, it would cost literally hundreds of thousands of jobs in California.

I would like to take a moment to read from an analysis by John O. Wilson, Chief Economist for Bank of America, on the GATT agreement, and I quote:

If it is not ratified, what would the absence of a GATT accord have on trade development? Specifically for California, we could anticipate the following developments:

(1) an increase in tariff and non-tariff barriers to California exports to Asia, Latin America, and Europe;

(2) a reduction in California exports to those regions, and particularly to Japan, China, Germany, and France;

(3) little impact on trade with Canada and Mexico which would still be controlled by the [North American Free Trade Agreement]; and,

(4) an immediate loss of 173,000 jobs in California (in 1995) growing to a loss of 252,000 jobs by 2000. This would increase the unemployment rate by a full one percent.

This is not my analysis; this is an economist's analysis.

Let us take a brief look at how some of California's major industries will most likely be affected by GATT.

AGRICULTURE

In 1993, California's agricultural production amounted to almost $20 billion. In that year, we exported $1.4 billion in agricultural products. Hence, almost 50 percent of what is produced in California is exported, that is how big it is.

The GATT agreement will continue this growth by reducing agricultural tariffs by 36 percent over 6 years, increasing market access for agricultural exports and reducing anticompetitive agricultural subsidies by foreign nations. Some even think we can reduce our subsidies to American agricultural crops because they will no longer be necessary.

I want to highlight a few examples from the California Farm Bureau of how California agriculture will benefit.

Our No. 1 export commodity is beef. The GATT agreement will increase California's beef exports by 10 to 14 percent. The reduction in Japan's beef tariffs will be cut from 50 percent to 38.5 percent. This is a huge reduction, and will result in the export of more California beef to Japan.

The GATT will permanently open Japan's market to California rice by establishing an import quota of 379,000 tons of rice in 1995. This amount will be increased, almost doubled, to 758,000 tons in the year 2000. This market, as you know, was initially opened in 1993 because Japan was unable to supply its own people with rice that year. But the market has tightened again. So clearly, under GATT, Japan's market will be opened once and for all for California rice.

Almonds are another example of expected export growth under GATT. California produces up to 70 percent of the world's supply of almonds. A reduction in the tariff on almonds, particularly in the European Union, should result in increased sales and increased U.S. jobs. Blue Diamond expects its growers will benefit immensely from the $21 million reduction in almond tariffs to Europe.

The GATT agreement will also increase export sales of California wine. One of California's largest wine customers, Japan, will reduce its wine tariff from 21.3 percent to 15 percent. Furthermore, the GATT will require the European community to substantially reduce its export wine subsidies.

Tariffs for citrus are greatly reduced. Let me provide some examples. The European Union's tariffs for orange juice—that is pure concentrate—will be

reduced from 19 percent to 12.1 percent. In Japan, tariffs for oranges are down from 40 percent to 32 percent, and grapefruit tariffs are down 10 percent.

In Korea, tariffs will drop for lemons, limes, and grapefruit by 40 percent. In Thailand, tariffs will drop for sweet oranges and grapefruits by 50 percent. Think of the markets that then open for our products.

In summary, for agriculture in California, GATT could mean 112,000 new jobs, $10 billion to $30 billion in related economic activity, and an export boost of $5 billion to $14 billion. For the Nation, GATT could mean a net gain in U.S. jobs of 300,000 to 700,000 over 10 years, according to Citibank.

Let me talk for a moment about sanitary and phytosanitary policy. This is a dull series of words for something that has become very significant.

Exporters of California agricultural products have found that, as tariffs and quotas are reduced, sanitary and phytosanitary barriers are erected. For example, Mexico did this with plums. They just stopped plums at the border and they said they had phytosanitary conditions and the plums could not be sold in Mexico. Therefore, they could not be returned because they would rot. And so they used phytosanitary concerns as an actual barrier to exports from this country.

The GATT agreement establishes necessary rules and disciplines to prevent the use of both sanitary and phytosanitary regulations as disguised trade barriers by recognizing only scientifically sound measures.

MANUFACTURING

Let me speak for a moment about industrial machinery, computers, and electronic equipment. California's biggest exports consist of industrial machinery, computers, and electronic equipment. These categories alone accounted for nearly half the State's exports last year. When it comes to computer parts, the European Union will reduce its tariffs by a whopping 87 percent. Korea would lower its tariffs by 40 percent and Japan would eliminate its tariffs altogether. Reduced tariffs will increase sales of exports of these products and increase job opportunities here at home.

INTELLECTUAL PROPERTY

The GATT agreement does something else. It guarantees the protection of copyrights, patents, trademarks, industrial designs, and semiconductors. American businesses lose an estimated $60 billion a year—$60 billion—from piracy of intellectual property. People take great risk as entrepreneurs, get a patent, feel they are protected, export abroad, and then find out their patent is meaningless.

ENVIRONMENT

Let me speak on the environment. I recognize the concerns raised by some regarding environmental protection. I have great respect for my friends in the environmental community. I was proud to work with them in the last 2 years to help enact the California Desert Protection Act.

While the U.S. negotiators were successful in achieving some measure of environmental protection, environmental groups advocated for more. As a consequence, the GATT agreement calls for the establishment of an environmental agenda to deal with unresolved environmental issues in the future.

Some have stated the GATT would require the United States to lower its environmental standards to those of developing countries, or to an internationally harmonized level. The GATT agreement makes it clear that the United States can maintain environmental standards which are stricter than international standards if, one, the United States decides that the international standards are not sufficient to achieve its appropriate level of protection; and, two, the standard can be justified on scientific principles. These rules work in our favor because they will allow us to challenge blatantly protectionist "food safety" claims that have been routinely used to bar the sale of our products abroad.

The recent GATT panel decision rejecting a challenge to the U.S. fuel economy laws demonstrates that the United States can have stricter environmental standards than other countries and still be in compliance with GATT. This case showed that the United States can enact laws that further energy conservation goals and protect the environment.

I ask unanimous consent to have printed in the RECORD a letter from me to Ambassador Kantor in June, and his answer, on three other environmental concerns.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
Washington, DC, June 23, 1994.

Hon. MICHAEL KANTOR,
U.S. Trade Representative,
Washington, DC.

DEAR AMBASSADOR KANTOR: Some serious concerns have been raised by members of the environmental laws in California. As you know, the European Union has published a target list of U.S. environmental laws it believes it can successfully challenge as illegal barriers to trade, if the Uruguay Round agreement is adopted.

The European Union's "Report of United States barriers to Trade and Investment" targets specific California laws as well as federal laws that are important to California. Those laws include:

THE SAFE DRINKING WATER AND TOXIC ENFORCEMENT ACT (PROPOSITION 65).

This law requires warning labels on all products containing substances known to cause cancer or reproductive harm. The Europeans contend that this law "imposes stricter California standards in place of federal standards." They also object to requirements imposed by the California Attorney General under Proposition 65 to participate in the financing of a $1 million lead safety information campaign for consumers.

GLASS RECYCLING

California requires recycled material to be used in imported and domestic glass food and beverage containers. The minimum percentage is scheduled to rise from 15 percent in 1992 to 55 percent in 2002. This law applies to all glass containers produced or sold in California and thus affects European Union exports to California. The Europeans object to the law because it imposes requirements and therefore restrictions on their imports.

LEAD IN WINE

California recently set tolerance levels for lead in wine that are higher than the federal standard. The European Union opposes states being allowed to set higher than federal standards.

These are the specific California laws that the European Union has identified for GATT action. Many other California and U.S. environmental and food safety laws also appear to be vulnerable to GATT challenges.

I would appreciate your views regarding whether these laws would be endangered if the GATT implementation bill is passed by Congress. Are these laws violations of GATT? If they are, could California be required by the federal government to change them?

This is a very important matter. I would like to give you the opportunity to separate fact from fiction in this debate. I look forward to hearing from you on this important matter.

Sincerely,

DIANNE FEINSTEIN,
U.S. Senate.

U.S. TRADE REPRESENTATIVE,
EXECUTIVE OFFICE OF THE PRESIDENT,
Washington, DC, July 27, 1994.

Hon. DIANNE FEINSTEIN,
U.S. Senate, Washington, DC.

DEAR SENATOR FEINSTEIN: Thank you for your letter of June 23, 1994, concerning the impact of the Uruguay Round Agreement on environmental laws in California. I welcome the opportunity "to separate fact from fiction in this debate." I will address each of the points in your letter in turn.

The Uruguay Round Agreement is good for the United States, and the State of California, because it will generate economic growth and good jobs. I suspect that some of the opposition to the Uruguay Round Agreement may in fact reflect a more fundamental apprehension about economic growth. We do not share this apprehension. We want instead to promote responsible economic growth, and believe firmly that trade can and does play an important role in growing the U.S. economy.

As you state in your letter, some serious concerns have been raised by members of the environmental community regarding the potential impact of the Uruguay Round Agreement on environmental laws in California. I want to assure you that these concerns are unfounded. One important point to keep in mind is that while most environmental organizations are concerned about trade, many are working with us to make the trading system more compatible with environmental and conservation measures. Unfortunately, a few groups have chosen to take the alarmist path, frequently making claims based on misinformation and highly exaggerated speculation.

The European Union's Report on U.S. Trade Barriers is, as you mention, cited by

certain environmental groups as proof that specific California laws are being targeted by our trading partners and that these laws can be successfully challenged under the General Agreement on Tariffs and Trade (GATT). This misreads the EU's report and is completely speculative. The European Union has been preparing its annual report for years. If they really thought they had good cases under the GATT, they could have filed them long ago.

This year's report, like previous ones, is basically a political document in which the EU points to laws and policies in the United States that they would like to see changed. It does not claim that each U.S. or state law cited is inconsistent with the GATT. Nor is it a legal treatise; it should not be seen as carrying any legal weight in interpreting the GATT even in the relatively few instances where the report actually does suggest an alleged GATT inconsistency.

In general, we find nothing in the EU's report that is persuasive with respect to any of the measures referred to in your letter. Any challenge by the EU is completely speculative at this point in time. Needless to say, the United States has never proposed that any changes to these laws were needed in order to conform them to U.S. obligations under the GATT, nor is the Administration proposing any changes to any of these laws in order to implement the new Uruguay Round Agreement.

Let me now discuss briefly each of the measures mentioned in your letter:

Proposition 65. The EU's report does not even hint at a GATT inconsistency with respect to Proposition 65. We would note that the law is not discriminatory, and States have the right to establish their own requirements to protect against cancer or reproductive harm.

Glass Recycling. The EU claims this law is not in conformity with the GATT because "any environmental damage caused in California by the import of glass containers is in no way related to the amount of recycled glass used when the product was manufactured in a third country." However, the EU's "jurisdictional" approach has already been discredited once in the GATT when they tried to convince a dispute settlement panel to adopt it. Furthermore, the EU ignores the fact that the governments negotiating the Uruguay Round Agreement have recognized that this is an area needing additional work under the new World Trade Organization, so they are trying to prejudge the results of that work.

Lead in Wine. The EU does not even claim that this measure is inconsistent with the GATT. Lead is recognized as posing a health hazard which our laws are addressing in a nondiscriminatory way.

Consequently, among the three laws you cite, the EU actually claims that only one is inconsistent with the GATT, and they have not pointed to anything in the GATT to support their claim. This is particularly ironic since many European countries have their own recycling requirements as part of their programs to deal with solid waste problems.

On a more general level, we have a system that mediates against discrimination, the core objective of many of the disciplines of the GATT. On the other hand, the same cannot be said with as much confidence about all other countries. And this underlines the importance of having international rules: we want a level playing field which can be used to root out discrimination while fully preserving the right of governments to protect the environment and the health and safety of their citizens.

The Uruguay Round Agreement takes important steps in the right direction. Of course, it is not perfect. Environmental considerations have only become a trade issue in recent years. However, I think we should all be encouraged by the fact that we were able to persuade all of our trading partners to launch an important new work program within the WTO to find ways to ensure greater compatibility between the evolution of the trading system and environmental measures. We are committed to this project and are working closely with our environmental community to make sure it addresses their concerns.

Thank you again for giving me the opportunity to correct some of the misimpressions created by some groups to derail the Uruguay Round Agreement.

Sincerely,

MICHAEL KANTOR.

Mrs. FEINSTEIN. Thank you, Mr. President.

SOVEREIGNTY

Let me touch on what is perhaps the most emotional element of this debate, and that is the argument the GATT in some way, shape, or form harm's America's sovereignty. Many have raised questions concerning whether the World Trade Organization, WTO, could undermine this sovereignty. In my opinion, much rhetoric and misinformation have clouded the facts about the WTO.

Earlier today, Senator BRADLEY pointed out that America wins 80 percent of the decisions made by GATT. What he did not say was that many panel decisions are blocked by the losing nations under the present dispute settlement procedure, so they never go into effect, or they are delayed. So America's victories mean little.

Under the new procedure, a country cannot block a panel decision. This, more times than not, works in favor of the United States.

Even if a GATT panel finds that a country has not lived up to its commitments, all the panel can do is recommend that the country begin observing its obligations. The defending country may choose to change its law, it may decide to offer trade compensation, such as lower tariffs. At worst, if a negotiated resolution is not reached, the country that lodged the complaint may respond by suspending trade concessions equal to the injured amount.

GATT panel decisions cannot change United States law. Section 102(a) of the GATT bill makes it clear that, "no provision of the Uruguay round agreement, nor the application of any such provision to any person or circumstance, that is inconsistent with any law of the United States, shall have effect ."

Congress passed legislation in 1988 establishing our objectives for this round of the GATT talks. Principal among those objectives was strengthening the dispute settlement process. The United States has been frustrated in international trade disputes because, while we have maintained the world's most open market, panel decisions we have won against illegal foreign trade practices have been blocked by the losing country.

While the United States interests are fully protected, the World Trade Organization agreement permits the United States to withdraw from the organization with 6 months notice.

Further mechanisms have been put in place to quell concerns about U.S. sovereignty. Section 125 of the GATT will allow Congress to review its membership in the WTO every 5 years. At that time, Congress will have the opportunity, if it wishes, to cast a vote to pull out of the WTO.

Next year, Senator DOLE will propose legislation that would allow Congress to vote to withdraw from the WTO if the United States is on the losing side of three WTO decisions within a 5-year period.

BUDGET WAIVER

Congress has made great strides in reducing the growth of the Federal deficit. The budget deficit for fiscal year 1994 was $203 billion—approximately $100 billion less than it otherwise would have been if we did not enact the Budget Reconciliation Act in 1993.

Tariff reductions in the GATT bill require approximately $11.9 billion in offsets over 5 years. This bill includes $10.3 in deficit reduction measures and $1.6 billion in previously enacted budget savings, known as pay-go balances.

Because the Congressional Budget Act does not allow pay-go balances to be used as an offset, the budget point of order must be waived by 60 votes. And we will face that tomorrow.

I believe that there is precedent for using pay-go balances to offset revenue measures. It was used five times in the Bush administration, most recently with the Emergency Unemployment Extension Compensation Act of 1992.

CONCLUSION

There is no disagreement among mainstream economists that the GATT trade agreement will increase U.S. exports and job opportunities in the United States.

To be sure, GATT is not perfect. Some of the protections are phased in over too long a period, and some of the tariff cuts and protections are not as extensive as they might be. In particular, I would like to have altered the European Union's cultural exemption provisions to create freer trade in movies, television programs and recordings. I also would have phased out the multi-fiber agreement differently. Nonetheless, there is no question that this agreement is still a win-win for the United States, and especially for California.

Trade agreements always seem difficult to understand, even mind numbing. Not only does this agreement help large industry, it also assists small businesses. I would like to give two small business examples of how GATT

will help two small businesses in the State of California.

One is a company called Applause, a Los Angeles area distributor of children's toys and gifts. They told me that lower tariffs will allow them to increase their sales by 12 percent to other countries. The upshot? They plan to hire 150 to 275 workers in California.

A second company, Blue Leaf Design, in Monterey, manufactures outdoor recreational equipment. This company has been hesitant to market overseas because of the lack of patent protection. Under the new agreement that would change. Consequently, the company expects to triple its sales and double its work force over the next 10 years. So, not only are larger businesses benefiting, but small ones are as well.

Mr. President, in summary I would like to indicate my strong support for the passage of the General Agreement on Tariffs and Trade.

I thank the President, I thank the Senator from New York.

The PRESIDING OFFICER. The Senator from New York is recognized.

Mr. MOYNIHAN. Mr. President, may I thank, might the Senate thank the Senator from California, for a wide ranging and concrete description of what we have here. Just to help, for the record, sanitary refers to animals; phytosanitary, to plants. The Senator mentioned rice. We have three large rice producing States. I bet California produces some, but certainly Louisiana, Arkansas, and Texas do.

On the front page of today's Washington Times there is a large photograph from Seoul, Korea. It says, "Fired Up Farmers. South Korean farmers demonstrate in downtown Seoul yesterday against the GATT provisions opening rice markets."

This is a pattern we see all over the world. One of the great innovations, and after so much effort in this GATT agreement, is that agricultural products are finally involved.

A year ago I was in Geneva, going around in the last week of the negotiations, making points at various ministries. All that time, the streets of cities all over France were blocked by farmers saying what do you mean, American food products can come here?

The answer is yes, now. And about time, too.

Well done.

I thank my colleague very much, and yield the floor.

The PRESIDING OFFICER (Mr. EXON). The Senator from Rhode Island is recognized.

Mr. CHAFEE. Mr. President, by any measurement, the trade legislation we are considering today represents a monumental achievement. After 7 years work, the U.S. and 122 other nations have reached an agreement on new international trading rules.

These rules cover subjects that previous agreements failed to cover: for example, agriculture and textiles. Likewise, for the first time, the rules have been expanded to deal not only with tangible goods, but with services and with intellectual property.

The Uruguay round takes its place as the eighth—and most far-reaching—of the consecutive negotiating "Rounds" that have occurred in the nearly 50 years since the establishment of the original GATT in 1947. Begun in Uruguay, under the Reagan Administration, continued in the Bush Administration, and concluded by the Clinton Administration, the Uruguay round Agreements represent seven years of exceedingly arduous negotiation. The negotiations had their share of highs and lows, and at times seemed dangerously close to breaking down altogether. But they did not; and that they did not is a testament to the skill and patience of our trade negotiators and to the commitment of these three Presidents. I want to salute Presidents Reagan, Bush, and Clinton, and U.S. Trade Representatives Yeutter, Hills, and Kantor, for what may be called, without hyperbole, a truly unprecedented and historic agreement.

IMPACT ON THE UNITED STATES

What will the Uruguay round mean to the United States, which exports some $660 billion (more than 10 percent of our GDP!) in goods and services annually? How will it affect our consumers, our manufacturers, and our economy?

As I think the endorsement of the Uruguay Round Agreements by the organization Consumers Union demonstrates, American consumers and their families can expect to see benefits of increased choice and lower prices. Consumers Union says that the agreement "will eliminate or reduce a variety of costly barriers that artificially increase consumer prices and reduce consumer choice." With the agreements in place, goods that we purchase every week will be more varied, more plentiful, and more affordable. Indeed, the Department of the Treasury estimates that the Uruguay round, once implemented, every year will bring an additional $1,700 in benefits to each American family of four. That is good news indeed. Mr. President, I ask unanimous consent that the letter from the Consumers Union be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. CHAFEE. Manufacturers will see their market access increased as global tariffs are slashed by one-third—or $744 billion; and many of these tariff cuts come in areas in which the United States is particularly competitive—such as scientific and medical equipment, chemicals, and electric machinery.

U.S. service providers—and here I mean telecommunications, financial services, and professional services—will reap new benefits from the round. Rules regarding services are set forth in the agreements, and these will serve as a framework for further liberalization. Clearly, more remains to be done in the area of services, as not all the U.S. negotiating objectives were achieved. But as the President's Advisory Committee on Trade Policy and Negotiations noted, the new agreement is an important achievement because it includes services in the world trading system for the first time and has resulted in some substantial market access offers. Moreover, the services agreement itself provides for continued negotiation in basic telecommunications, financial services, and maritime transport.

Intellectual property—such as computer software, film, television programs, pharmaceutical formulas, semiconductor and jewelry designs—all of these product areas where the United States stands virtually unrivaled will gain new protections under the intellectual property agreement.

How will the Uruguay round affect our economy overall? We will see more trade, more sales—and more well-paying jobs. Our products will be sold more easily and less expensively all over the world. The GATT Secretariat has projected that the Uruguay round agreements will add some $127 billion annually to the U.S. economy. Our own Council of Economic Advisors has estimated that the Uruguay round, once implemented, will add from $100–200 billion to the U.S. economy each year. I think these phenomenal figures speak for themselves.

IMPACT ON THE TEXTILE INDUSTRY

What about the U.S. textile industry? We in Rhode Island have a long history in textiles, and the industry continues to be an important contributor to the Rhode Island economy. It has not been easy, as we have faced serious competition not only from overseas, but from southern States. But this experience has toughened our industry; and today, we make a high-quality, topnotch product that can and does compete against products from anywhere else.

There is no question that the Uruguay Round Agreement on Textiles and Clothing will bring about significant changes in the industry here at home—and indeed, worldwide. Under the Agreement, the Multi-Fiber Arrangement—the formal name for the international quotas now in place on textiles and textile products—will be phased out over a ten-year period, and no new quotas will be allowed. Once that period is over, textile products will be fully integrated into the world trading system and will be treated no differently from other goods.

The quota phaseout will be a change. But U.S. industry has been preparing for this eventuality since the Uruguay round negotiations started in 1986, at

which time it was made clear that textiles were to be brought into the trading system. And, to ensure that the transition period progresses smoothly, with as much predictability as possible, I offered a series of amendments to the implementing bill. These amendments, now part of the bill before us, helped win the support of major textile associations—including the American Textile Manufacturers Institute and the Northern Textile Association—for the legislation before us today.

I believe that the U.S. and Rhode Island textile industry can withstand foreign competition, and can continue to produce and sell quality product. We will need to continue to pursue greater market access overseas. I am confident that our negotiators will do so, and indeed, I am gratified by their recent success with Pakistan.

THE MULTILATERAL TRADING SYSTEM

Let us pause for a moment and consider the importance of the world trading system.

The United States has been a participant in formal global trading agreements for the past 47 years. After the disastrous tariff policies of the 1930's, we joined with 22 other nations in 1947 to draft the original General Agreement on Tariffs and Trade. We helped found the GATT because we—and the other 22 original "Contracting Parties" to the GATT—believed that expanding trade would cause all those participating to prosper and grow. And it has: the rising tide has lifted all of our boats.

The United States Government has believed that there is more to be gained than lost by setting up international rules for trading among nations. The 1947 GATT not only established tariff concessions, but also a basic set of principles meant to guide how trade was to be conducted. And we—the most powerful economy in the world then, as now—made the decision that participating in trade under a set of rules, brought more benefit to us than competing without rules in the law-of-the-jungle situation. Thus we entered into this contract with our trading partners; and we, like they, have reaped the benefits of this mutual contract ever since.

The Uruguay round agreements that will be implemented by the legislation before us stand as a reaffirmation of our belief in the value of the global trading system and its rules of play. And, as history has shown us. These expanded rules will promote the free flow of trade, and thus prosperity.

I want to emphasize that our participation in the world trading system is best described as a contract: the United States, a sovereign nation, agrees to abide by certain rules and guidelines, rules that we, in fact helped draft. But we remain a sovereign Nation which has the right to withdraw from the contract at any point in time should we find that the contract is no longer beneficial. The GATT is not a world government that holds absolute power over members, but rather a voluntary association made up of sovereign members; indeed, GATT members are known as "Contracting Parties!"

THE WORLD TRADE ORGANIZATION

That leads me directly to a topic that has received an overwhelming amount of attention in recent months: the creation of the World Trade Organization (WTO).

First and foremost, let me emphasize that the WTO is not some brand new organization that suddenly has appeared on the scene. Rather, the WTO is a formal—and yes, more effective—version of what we already have in place in Geneva. The WTO will replace the ad hoc organization that has administered the GATT rules since 1947. It is not a super-government bent on controlling sovereign nations; the WTO's sole job is to administer the global trade rules—just like its predecessor. It cannot make changes in nations' domestic laws.

This is particularly true for the United States. When the Uruguay round agreements go into effect, they will not nullify U.S. law. Only Congress has the power to change U.S. law. Indeed, as the Senator from California mentioned, the first substantive line—section 102—of the legislation before us explicitly states that no provision of the agreements that is inconsistent with U.S. law shall have effect.

Thanks to the new Dispute Settlement Understanding, the WTO will be better able to referee international trade disputes and bring about their resolution.

This is an objective for which we in the United States have been pushing for years—and indeed, in 1988 Congress explicitly directed USTR to negotiate more effective and expeditious dispute settlement mechanisms. Why? Because we, as a nation who often brought trade problems to the international forum, were perennially frustrated with the procedures that allowed for endless delay and no finality. The Europeans limited our soybean exports with complete impunity. The Japanese kept our beef out without cause. The French banned our fish exports out-of-the-blue. In each of these cases, the United States was frustrated by an inability to resolved these cases through the multilateral system because the GATT dispute settlement mechanisms were too weak.

But now, we will be able to win effective relief. Let me take an example that strikes close to home for most of us in New England. Last March, after French fishermen rioted and burned down a town hall, the French government suddenly—and for the flimsiest of reasons—banned imports of foreign fish. This hit us in Rhode Island pretty hard. There was nothing wrong with the fish whatsoever—it was clear that the French took this action solely to appease their fishermen. Under the old GATT dispute resolution, it would have taken years before a decision was reached. But under the new system, the United States will be able to take the French to dispute resolution immediately (with expedited procedures for perishable products), avoid unfair delays, and win a decision that would force the French to cease and desist, or else face retaliation on their fish products (or "cross retaliation" on their wines). If you want fair trade—this is it.

Now, some will say: But this powerful system will be used against the U.S. After all, what is good for the goose is good for the gander. Granted—but look at the record. Who has the most open market in the world? The United States. Whom has history shown to be more often a plaintiff than a defendant in Geneva? The United States Who has an impressive record in winning complaints in Geneva? The U.S. It is safe to say that stronger dispute settlement plays to our advantage.

Some say: in the WTO every nation—including tiny nations—will have a vote, and they will outvote the United States every time. However, this argument ignores the way the system works. Under the WTO—just like its predecessor—each nation technically will have one vote. But does that not mean we will be outvoted. Why?

First, because the WTO is directed to operate by consensus first and foremost; second, because unlike the United Nations, there rarely is a vote taken in the GATT. In fact the last substantive vote was in 1959, 35 years ago. And third, because due to its size and impact on the world economy, the United States plays a leading role in world trade matters, and its view often carries the day.

The WTO is an integral part of the Uruguay round agreements. A nation may not choose to join, say, the Agreement on Agriculture but not the WTO. It is a package deal: join the WTO and gain all the benefits of the updated GATT—or don't join and get nothing. As must every other signatory nation, the United States must sign onto all the Agreements, including the WTO, or forget the benefits of the Round altogether.

What if, however, at the end of the day the new WTO and dispute settlement procedures just are not beneficial to the United States? Simple: we get out. The Uruguay Round Agreements themselves allow any nation to get out of the package upon a mere 6 months' notice. Moreover, the implementing legislation explicitly calls for a review of the WTO every 5 years, and if Congress so decides, it can vote to take the United States out. And Senator DOLE has worked with the administration on a plan to ensure that should WTO panels exceed their authority, Congress

can remove the United States from the WTO. It could not be any clearer: if we don't like it, we can leave it.

CLOSING

I believe we will find that the Uruguay Round will bring to this Nation great benefits that will increase our prosperity. I believe that this Round will take its place in history as one of the most important global agreements—both in terms of its size and in terms of its impact—ever fashioned. And it is our leadership that has brought it this far.

More than 30 countries already have given it their stamp of approval, with 50 others expected to do so shortly. The European Union and Japan are watching us closely to see what action we take. The future stability and growth of the global trading system is in our hands. Without the United States, there will be no such trading system. A yes vote advances our Nation's and the world's prosperity. I shall vote for the budget waiver and for approval of the Uruguay Round and urge my colleagues to do likewise.

EXHIBIT 7

CONSUMERS UNION,
PUBLISHER OF CONSUMER REPORTS,
Washington, DC, September 28, 1994.

Hon. JOHN H. CHAFEE,
U.S. Senate, Washington, DC.

DEAR SENATOR CHAFEE: In the next few days, you will vote on legislation that would approve and implement the GATT Uruguay Round Agreement. Consumers Union urges you to vote "YES".

Through increased competition and economic expansion, this agreement will benefit American consumers. We urge the Congress to approve the Agreement this year, so that on January 1, 1995, consumers can begin to realize its benefits.

The Agreement is a crucial first step in the continuing effort to make the rules of world trade more consumer friendly. It will eliminate or reduce a variety of barriers that artificially increase consumer prices and reduce consumer choice. While additional improvements to the world's trading rules are needed and must follow the implementation of the Uruguay Round, the first step, implementation, is needed now.

Consumers Union has reviewed the issues relating to protection of U.S. health, safety and environmental standards. We believe that the Agreement is appropriately written to protect these standards.

Your "yes" vote to ratify the GATT Uruguay Round Agreement will be a "yes" vote for consumers.

Sincerely,

MARK SILBERGELD,
Director, Washington Office.

Mr. SPECTER addressed the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. SPECTER. Mr. President, I ask for 20 minutes from the distinguished Senator from Rhode Island.

Mr. CHAFEE. That will be fine.

The PRESIDING OFFICER. The Senator from Pennsylvania is recognized for 20 minutes.

Mr. STEVENS. Will the Senator yield to me for just a moment?

Mr. SPECTER. Yes.

PRIVILEGE OF THE FLOOR

Mr. STEVENS. Mr. President, I ask unanimous consent that an intern working on my staff at the present time, Dana Quam, be admitted for floor privileges.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Pennsylvania.

Mr. SPECTER. Mr. President, I support the General Agreement on Tariffs and Trade, commonly known as GATT, because I am convinced that it will help the American worker by creating many high-paying jobs, that it will help the American consumer by bringing in locally priced goods, and because it will be beneficial generally worldwide. History favors free trade. In the long run, elimination of tariffs and trade restrictions promotes commerce and leads to a higher standard of living for all involved. The rising tide lifts all the boats.

In an era when so many say that the next generation will have a lesser standard of living than the past generation, I think it is incumbent on government to do everything we can to promote trade and to promote a higher standard of living.

It is my view, Mr. President, that the American worker can compete very well in worldwide markets notwithstanding any restrictions which may be imposed on the United States in terms of wages, in terms of environmental controls or whatever additional impediments there may be because of the competitive force of the American worker.

So I am confident that in the long run we will be able to compete very, very effectively providing there is reciprocity. And when we lower tariffs and lower trade barriers, it is in effect a tax break and a tax reduction for the American consumer.

The issue has been raised repeatedly about the question of loss of sovereignty. I take a position second to none, Mr. President, on insisting that American national sovereignty be maintained. But there is no realistic issue about loss of American sovereignty in the so-called GATT agreement. The basic protection on this critical issue is our right to withdraw at any time from GATT on 6 months' notice.

The concern about potential unfairness to the United States is one which I share. I have long urged, on legislation which I have introduced in the course of the past decade, that there be a private right of action to guarantee that U.S. industry would not be unfairly impacted by subsidies or by dumping. And the arrangements which have been worked out, with the leadership of the distinguished Senator from Kansas, Senator DOLE, I think, go a long way in guaranteeing that if there is any unfairness to American industry or to the American worker, it would be rectified by having a panel of Federal judges who will review the decisions of the World Trade Organization to be sure that there is no unfairness. This kind of review, which is in effect appellate review, I think, is a very, very excellent remedy to guarantee against unfairness to the United States. There are a series of standards set out that if the World Trade Organization has three decisions, according to the panel of United States judges, which are unfair, arbitrary or capricious, or by misconduct, or by other standards which are set forth explicitly, then a resolution of withdrawal can be brought in the Congress of the United States and can lead to immediate notification of the intention of the United States to withdraw which will protect our interests if in fact we are treated unfairly by the World Trade Organization.

There is no doubt, Mr. President, about the complexity of the pending agreement and about the many provisions which will have to be experienced to really understand exactly how they will work out. But that happens any time any law is enacted in the United States or any complex provisions are put into place to govern conduct in trade or criminal law or from any sort of change in regulations governing our conduct. If we find as a matter of trial and correction that it does not work out, there can be a modification, or if it is onerous, we can withdraw from the entire arrangement.

A question has been raised about the proceedings as to due process and whether the decisions of the World Trade Organization will really be fair. I think that this concern has been allayed by a number of comments from Senators who have spoken to the fact that so much of what is done in GATT is done by consensus. When you talk about due process of law, we ought to note that in the United States there has been a lengthy development as to what is due process in our own courts, and those standards are changing with many, many modifications as to what constitutes due process of law. Here again, I think in due course, if we find that the procedures are insufficient, they can be changed; or again, if they become very onerous or are deemed unfair to the United States in the careful procedures worked out, we can withdraw from GATT.

As I view the current trade restrictions in the trade laws, I have expressed on the floor of this Senate many times my dissatisfaction with the way the International Trade Commission works when there is some basic unfairness alleged by an American company, which injures an American company or American workers; and when a complaint is taken under current law to the International Trade Commission, it takes a long period of time before there is a decision. There

has been no injunctive relief stopping the unfair trade practice. When the decision is handed down, the damages are prospective only, meaning it applies only to the future; so that if an American company or American workers are injured, it is just too bad as to what happened in the past. If under some circumstances there is a surge or an increase in imports as a result of the complaint filed by an American company, there can be some remedy for past conduct. But in decisions which frequently take more than a year, that remedy is limited to a few months, so what we have at the present time under the International Trade Commission hardly compensates for existing unfair trade practices.

With the new arrangements under GATT, we find that many items will be covered which have not been covered up to the present time, such as intellectual property, services, and agriculture. Agriculture is the leading industry in Pennsylvania, as it is a major industry in the United States. GATT offers unique opportunities for increased exports for the American farmer.

The steel industry which has been very hard hit by unfair imports, by subsidies from foreign governments, and from dumping, is an industry which will be very materially assisted by GATT, according to the leading executives of the steel industry in Pennsylvania.

In supporting GATT, I express my concern about the impact in the short run on the loss of jobs. That is a concern which I have had during the course of the 14 years which I have been in the U.S. Senate. When the American work force, especially the work force in a State like Pennsylvania, has been so badly damaged by unfair imports and by dislocations in the work force, to the extent that this occurs, I think we will have to take action in the U.S. Congress to make sure that there is adequate compensation for workers who are injured in the short run.

The industrial organizations have been very, very strong in their support of GATT. In a State like Pennsylvania, with very strong labor interests, I have had some constituent objections, but some of the labor groups think in the long run GATT will provide more jobs. That is certainly my conclusion. So that looking on GATT as a whole, I think it offers a really great promise for the future. It is by no means a certainty, but there are escape clauses and escape valves, so that if the U.S. is not treated fairly, or if it does not work out for the benefit of the U.S., we have ample opportunity to protect U.S. interests by withdrawing.

With respect to the waiver of the Budget Act, Mr. President, I propose to support that. The Congressional Budget Office, I think, too often in making the estimates for revenue loss does only for the very short run. I believe that in the longrun GATT will provide very, very substantial increases in revenue to the U.S. Treasury because of the increased trade, increased wages, higher paying jobs, leading to greater revenues.

Mr. President, I have sought recognition during this debate of the Uruguay Round of the General Agreement on Tariffs and Trade, commonly known as GATT, because in my view we are looking at a tremendous opportunity—not frequently seen in my 14 years here in the Senate—to create many, many high-wage jobs in this country as a direct result of reduced tariffs and trade barriers that have impaired the ability of U.S. companies to effectively sell their products abroad. While concerns exist with certain aspects of the Agreement, I believe on balance we should pass the GATT.

The GATT promises to cut tariffs on average by one-third on manufactured products and will eliminate tariffs in ten sectors that the United States is particularly competitive. For the first time, it will cover intellectual property, services, and agriculture—all of which are major exporting sectors of the U.S. economy. According to the General Accounting Office the GATT is projected to produce $100 to $200 billion a year in added income by 2004. The GATT also promises important export opportunities for U.S. concerns as it will remove many trade barriers that they currently face. This opening of new markets for U.S. industries competing overseas like, agriculture, steel, glass, chemicals, and pharmaceuticals will, in my judgment, increase jobs significantly in this country.

My home State of Pennsylvania, like the United States as a whole, is vitally dependent on foreign trade for its economic health. Pennsylvania's trade with countries all around the globe is worth billions of dollars. According to the International Trade Administration, in 1993 Pennsylvania was ranked 10th out of all 50 States in exports. In 1992, Pennsylvania's 10.6 billion dollars' worth of exports was comparable to the entire gross domestic product of countries like Cameroon, Ecuador, and Tunisia. According to the International Trade Administration, some of the Pennsylvania sectors that will benefit from the implementation of the GATT are: steel mill products, industrial and analytical instruments, computer equipment, construction machinery, household glassware and pottery, and pharmaceuticals.

There is strong constituent support in my State for GATT. There will be new high paying jobs for many people from increased export opportunities and additional revenues according to data supplied to me from many key Pennsylvania companies including Armstrong World Industries, Bethlehem Steel, Hershey Foods, Rohm & Haas, Unisys Corporation, and U.S. Steel.

The employees of Grove Worldwide which is based in Shady Grove, PA, and manufactures construction equipment, sent me pages of petitions urging me to vote for the GATT. PPG Industries, wrote with their comments in support of the legislation. For them, the GATT will provide guidelines for the protection of intellectual property, trade in chemicals and will open markets, besides being a tremendous benefit to consumers. Warner Lambert, in Lititz, PA, stated similar reasons for supporting the GATT.

According to Mr. Jim Unruh, chairman and CEO of Unisys Corp. in Blue Bell, PA, U.S. computer industry exports to the European Union exceeded $10 billion in 1993. Under the GATT, the European Union, which is the largest market for U.S. computer exports, will reduce tariffs by nearly 80 percent. While difficult to quantify, it seems clear that industry revenues will increase as a result of reduced tariffs. Mr. Unruh goes on to inform me that requirements to set up local assembly or research facilities as a precondition to doing business in certain markets will be reduced or eliminated under GATT thereby increasing U.S. job opportunities. U.S. Steel, based in Pittsburgh, urges me to support the agreement because it, and I quote, "will assist domestic manufacturing in its ability to compete internationally." In addition to that, numerous employees of the steel industry have recently written to me urging me to vote for GATT. They recognize the benefits of lower tariffs which leads to a better trading environment, fostering economic growth and good jobs.

The support for this agreement continues: General Electric, which has a significant presence in my State, informs me that almost 40 percent of their total revenue comes from international activity. The GATT would assist them in opening global markets and level the playing field in European trade. Miles, Inc., which employs 1,700 in Pennsylvania and plays a vital role in the Pittsburgh economy, urges me to support the GATT because it would protect their copyrights and patents, and lower the costs on almost all their raw materials. Procter & Gamble, which also has several facilities in my State, estimates that more than 10,000 jobs will be created for Procter & Gamble and their suppliers in the United States over the next 10 years.

Again and again, the message is the same: It is important to pass the GATT so that U.S. businesses can remain competitive worldwide.

As was the case during our consideration of NAFTA—the North American Free-Trade Agreement—in the first session of this Congress, my main worry in supporting GATT is the potential loss of jobs in the short run. No

one can question my consistent support of the interests of working men and women be it supporting increases of minimum wage, extending unemployment benefits, expanding job training or increasing funding for displaced workers. In balancing the short term job loss with the anticipated long-term job gains, however, my sense is that we should proceed with GATT and make sure that the Federal Government takes all appropriate steps to assist workers displaced by the effects of GATT.

While it is clear that this agreement is not perfect, I know of no trade agreement that is. There are those that urge us to reject this agreement, however, there is no guarantee that doing so will net a better agreement. Many businesses and industries have had to accept compromises, but they believe that this agreement is the best one that can be secured. The United States is a global trading partner and leader. Delaying passage of this agreement will likely send a dangerous message to the world marketplace. In my view, it is unwise to delay or prevent passage when we stand to gain so much in terms of jobs and increased revenues.

Legitimate concerns regarding U.S. sovereignty and fairness have been raised about the new World Trade Organization, the new international agency authorized under the GATT to enforce the provisions of the agreement. But I believe that we can deal with these. We in Congress must and will closely monitor the actions of the World Trade Organization as it concerns our interests.

In this regard, it is important to note that there are several checks on the ability of member countries to negate the U.S. influence within the WTO. First, member countries are expected to continue the GATT tradition and practice of reaching a decision by consensus. In fact, article IX of the World Trade Organization Agreement makes it clear that the practice of consensus is the primary means by which WTO members will seek to make decisions.

Second, within the legal framework of the agreement, voting safeguards are included in the event that a WTO vote should be required. These include unanimity in certain instances and supermajority in others. Moreover, supermajority votes will apply only to those countries voting in favor of them. Under this framework, therefore, it seems that the WTO cannot force the United States to do something that is against its national interest. Nor can it overturn our laws; that remains the sole jurisdiction of our legislative bodies, both State and Federal.

This is particularly important as it concerns our antidumping and countervailing duty laws and other trade laws such as Super 301 that allow us to redress unfair trading practices. I have constantly fought any weakening of these trade laws and in fact have sought to strengthen them. When the so-called Dunkel draft of the GATT was made available in December 1991, I wrote to then U.S. Trade Representative Carla Hills strongly objecting to it because it would weaken U.S. trade laws with regard to dumping and subsidized imports. In my extensive travels through Pennsylvania's 67 counties, I have seen the problems of Pennsylvania's working men and women including the injury caused by dumping and subsidized imports which violate the principles of free trade—which means cost of production plus a reasonable profit, free of foreign governmental subsidies, or dumping. Additionally, since 1982, I have sponsored and pushed legislation which would create a private right of action in the Federal courts to enjoin dumped and subsidized imports and to compensate workers and companies which have sustained serious damages from such imports. As I have frequently stated, there is nothing like the vigor of private plaintiffs when it comes to the enforcement of our trade laws. Fortunately under the GATT implementing language, our antidumping and countervailing duty laws remain intact and the President still has the Super 301 powers at his disposal.

Third, an additional safeguard is the option to withdraw from the WTO on 6 months notice as determined by the President or, importantly, by the Congress, in the event of three adverse WTO decisions within a 5-year period as was recently agreed to by the administration.

It should be mentioned that in other areas the United States would benefit from the WTO. The WTO would provide oversight functions and would subject member nations to GATT disciplines and rules of conduct. We will also benefit from a better written set of principles for dispute resolution which have been noticeably absent in the past, and has caused harm to the United States.

There is also concern regarding the deficit and waiving the budget rules in favor of the GATT. While there is no doubt that this agreement will reduce tariff rates and subsequent revenue, I think it is important to look at the long-term benefits of the agreement.

As former U.S. Trade Representative Carla Hills pointed out in her November 22, 1994, Washington Post op-ed such benefits are extraordinary. Citing economic projections, she states the GATT will give us nearly $1 trillion in new economic growth in the next 10 years. Unfortunately, the budget rules do not allow us to take that estimate into consideration. While we must fund future revenue losses, we cannot use future benefits to account for them.

As an economic fiscal conservative, I, too, believe that the Government must live within its means. But there are times when the needs of the country are such that we must spend a little to get a lot. And I believe that this is one of those rare instances when a waiver is in our best interest. Waiving the budget rules for the GATT is a wise investment. By providing a more open trading environment for U.S. businesses, we gain business growth which leads to greater revenue and the creation of more jobs and better opportunities in the long run.

In sum, Mr. President, this agreement is about jobs and the long-term economic growth of the United States. More and more, jobs in this country are dependent on the international economy. We have a responsibility to strengthen those positions and expand the opportunities for American economic growth. This agreement is also about strengthening bonds and enhancing global peace and security by bringing the economies of the world closer together. With this agreement, the United States will be sending the message that we will continue our commitment to global economic partnerships in the post-Cold War era. For these reasons, I urge my colleagues to support this legislation.

Mr. HOLLINGS. Mr. President, I understand, having talked to our distinguished chairman on this side, that I have just a few minutes remaining, in order to reserve the 2 hours for tomorrow. I understand that is their intent also.

With that understanding, I can make a few comments; is that correct?

Mr. MOYNIHAN. That is correct, sir.

Mr. HOLLINGS. Mr. President, I ask unanimous consent that an article by Lars-Erik Nelson, "The Victims of Free Trade," be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Washington Post, Nov. 26, 1994]

THE VICTIMS OF FREE TRADE

For its next disaster, the Clinton administration is making another one of those blunders that make ordinary Americans wonder, "Whose side are these guys on?"

In blind devotion to a perpetually disappointing economic theory, President Clinton and his aides are fighting for swift passage of the GATT, the general agreement on tariffs and trade. Sure, free trade will cost us some jobs in the short run, its advocates admit. But Vice President Al Gore promises that the GATT will be the biggest tax cut in history and "will lower prices for consumers."

Has it not dawned on these folks that America's most burning problem is not that consumer prices are too high? It is that our cities—once the joy of human civilization—are ever more dangerous slums, filled with the unskilled and unemployable victims of what economists celebrate as "progress."

America has not yet solved the social upheaval of the Great Migration of southern farm workers to the North, yet it is ready to dislocate millions more of its workers in the name of economic efficiency.

"The economists never want to talk about the social costs of free trade," complains a

Senate Democratic source. "Urban decay is by far the most important problem in the country."

It is particularly mindless for the Clinton administration to press for the GATT now. Its own welfare reform plan—and a far more Draconian one being pushed by Republicans—would force welfare recipients into the job market at the same time that GATT would kill the kind of low-wage, industrial jobs—in the garment industry, for example—that traditionally are the first step up the job ladder.

To the economists, these are "bad jobs," better shipped to low-wage countries. But if you're trying to end welfare, there is no such thing as a bad job. Any job is better than perpetuating welfare handouts, generation after generation.

Second, previous trade agreements have come with the promise of aid to workers who lose out. The new Republican-controlled Congress, however, regards such programs, especially those aimed at inner cities, as "pork-barrel spending." The Republicans would far sooner spend $3 billion for prisons to hold the dislocated than $3 billion for job training.

Resisting free trade is a tricky business. You find yourself on the same side as the paranoid yahoos who opposed fluoridation of water 40 years ago—and for the same reason: They saw the whole thing as an international conspiracy to deprive Americans of their freedom.

But for millions of Americans, free trade has not lived up to its promise. We are the freest-trading country in the world, and our incomes have stagnated for the past 20 years. once-secure employees live in dread of being laid off in the name of "global competition."

And the argument that free trade creates even better jobs for those who educate themselves is belied by the unending stream of middle-management layoffs and the spectacle of college graduates managing all-night grocery stores.

Yet the economists keep foisting their theory on the Clinton administration. "No proposition enjoys greater unanimity among economists than the idea that free-trade will, on net, be a win-win situation," says Rob Shapiro, a non-dogmatic economist at the Progressive Policy Institute.

"At the same time, we are seeing something we have never seen before—relatively backward countries producing advanced products. Koreans and Mexicans producing automobiles. We have figured out how to export our high-tech factories to low-wage countries—and we have not figured out how to deal with the consequences."

This is why, Shapiro says, economists close their eyes to the social costs of free trade. "They don't know how to deal with the problem—but they can't give up the economics of free trade," he says. "The fact is, there are significant social costs."

With the economists—and politicians—ducking the question, it has been left to a maverick Anglo-French businessman, Sir James Goldsmith, to raise the alarm about free trade's downside. In a current book, "The Trap," he makes this simple argument:

"The real cost to consumers of cheaper goods will be that they will lose their jobs, get paid less for their work and have to face higher taxes to cover the social cost of increased unemployment * * *. As unemployment rises and poverty increases, towns and cities will grow even more unstable. So the benefits of cheap imported products will be heavily outweighed by the social and economic costs. * * *."

Yes, I like my VCR. But it wasn't worth losing Brooklyn.

Mr. HOLLINGS. Mr. President, I ask unanimous consent that a list of the organizations in opposition to GATT be printed in the RECORD at this point.

There being no objection, the list was ordered to be printed in the RECORD, as follows:

For more information on these issues:

ENVIRONMENTAL

Friends of the Earth (202) 783-7400
Greenpeace (202) 462-1177
National Wildlife Federation (202) 797-6800
Sierra Club (202) 547-1141

LABOR

AFL-CIO Trade Task Force (202) 637-5000
Amalgamated Clothing and Textile Workers Union (ACTWU) (202) 628-0214
International Brotherhood of Teamsters (202) 624-6800
International Ladies Garment Workers Union (202) 347-7417
International Union of Electronic, Electrical, Salaried, Machine and Furniture Workers (IUE) (202) 296-1200

CONSERVATIVE

The American Cause (703) 827-9200
Coalition for Americas (202) 546-3003
The Eagle Forum (202) 544-0353
U.S. Business and Industrial Council (202) 628-2211

CITIZEN

Citizen Action (202) 775-1580
Citizens Trade Campaign (202) 879-4297
Government Accountability Project (202) 408-0034
National Rainbow Coalition (202) 728-1180
Ross Perot's United We Stand America (214) 450-8803

FARM

American Corngrowers Association (202) 835-0330
Institute for Agriculture and Trade Policy (612) 379-5980
National Family Farm Coalition (202) 543-5675
National Farmers Union (202) 554-1600
Rural Coalition (703) 534-1845

CONSUMER

Community Nutrition Institute (202) 462-4700
Public Citizen (202) 546-4996
Public Interest Research Group (PIRG) (202) 546-9707
National Consumers League (202) 639-8140

HUMANE AND ANIMAL WELFARE

Animal Welfare Institute (202) 337-2332
American Humane Association (202) 543-7780
American Society for the Prevention of Cruelty to Animals (ASPCA) (202) 232-5020
Humane Society of the United States (202) 452-1100

American Humane Association, Animal Protection Institute, Center for International Environmental Law, Community Nutrition Institute, Defenders of Wildlife, Earth Island Institute, EarthKind, Environmental and Energy Study Institute, Friends of the Earth, and Fund for Animals.

Greenpeace, Humane Society of the United States, Human Society International, International Fund for Animal Welfare, National Wildlife Federation, Sierra Club, Society for Animal Protective Legislation, US PIRG, World Society for the Protection of Animals, and World Wildlife Fund.

CALIFORNIA

Ban Waste Coalition and West Valley Coalition—Phil Klasky, Director
Bob Benson, Professor, Loyola University Law School*
California Citizen Action—Daniel Lambe, Director
California Communities Against Toxics—Stormy Williams, President
California Network for a New Economy—Carol Webb, Labor Representative
Center for Community Action and Environmental Justice—Penny Newman, Director
Center on Race, Poverty and the Environment—Luke Cole, Director
Citizens for a Better Environment—Mike Belliveau, Executive Director
Citizens for the Chuckawalla Valley—Donna Charpied, Director
Citizens Clearinghouse for Hazardous Waste—Annamarie Stenberg, Director
Clean Water Action—Bruce Lee Livingston, California Director
Community Alliance with Family Farmers—Thomas Haller, Executive Director
Concerned Residents of Commerce—Anthony Thorpe, Director
Concerned Citizens of Pico Rivera—Ophelia Rodriguez, President
Concerned Citizens of South Central Los Angeles—Kathleen Allen, Coordinator
Contra Costa County Central Labor Council—Steve Robeiti, Executive Secretary-Treasurer
Desert Citizens Against Pollution—Jane Williams, Director
Desert Environmental Response Team—Ray Kirkham, Director
Earth Island Institute—Dave Phillips, Co-Executive Director
Eddie Wong, Regional Director, Rainbow Coalition*
Environmental Coalition of UCLA
Greenpeace—David Chatfield, Regional Director
International Ladies Garment Workers Union Pacific Coast Division—Katie Quan, Manager
Jobs and the Environment Campaign—Jon Mayer, California Director
Labor/Community Strategy Center—Eric Mann
L.A. Rainforest Action Project—Atosa Soltani, Director
Mendocino Environmental Center—Gary and Betty Bail, Co-Directors
Mothers of East Los Angeles/Santa Isabel—Juan Gutierrez, President
Northern California Interfaith Council on Economic Justice—Sydney Brown, President
Northern California Labor Council for Latin American Advancement—Frank Martin del Campo, President
Pacific Advocates—Patricia Schifferle
People for Clean Air and Water of Kettleman City, CA—Mary Lou Mares, President
Peninsula Peace and Justice Center—Paul George, Director
Pesticide Action Network—Monica Moore, Program Director
Rainforest Action Network—Randall Hayes, Executive Director
Robert McAfee Brown, Professor Emeritus, Pacific School of Religion*
Sacramento Valley Toxics Campaign—Mark Fleming, Executive Director
Sam Schuchal, Executive Director, California League of Conservation Voters*
San Diego Environmental Health Coalition—Diane Takvorian, Executive Director
Sheldon Plotkin, Coordinator, Southern California Federation of Scientists
Sierra Club Southern California—Larry Freilich, Director
Sierra Club—Carl Pope, Executive Director

Sierra Club—Barbara Boyle, Regional Director
Sonoma County Conservation Action—Mark Green
South Bay Labor Council—Amy Dean, Business Manager
San Mateo Central Labor Council—Art Pulaski, Business Manager
Southwest Witness for Peace—Lynne Halpin, Grassroots Coordinator
Southern Kern Residents Against Pollution
Student Environmental Action Coalition—Abdi Soltani, Coordinator
Ted Smith, Executive Director, Silicon Valley Toxics Coalition*
Urban Habitat Program—Carl Anthony, Executive Director

CONNECTICUT

American Friends Service Committee
Connecticut Citizen Action Group
Connecticut Occupational and Safety Hazards
Connecticut State Federation of Teachers
Environmentalists to Elect Legislators (ELECT)
Greenpeace New Haven
International Association of Machinists
Labor Party Advocates
Legislative Education Action Program
New England Health Care Workers, 1199
Sierra Club
United Auto Workers
United We Stand
We the People

GEORGIA

AFL–CIO Region V
Amalgamated Clothing and Textile Workers Union
Communication Workers of America
ECO Action
Georgia Citizen Action
Georgia State Employees Union
Graphics Communications International Union
Greenpeace
International Brotherhood of Electrical Workers
International Ladies Garment Workers Union
Public Citizen
Sierra Club
Southern Organizing Committee for Economic and Social Justice
United Food and Commercial Workers Union

ILLINOIS

African American Citizen Coalition of Regional Development (AACCORD)
Amalgamated Clothing and Textile Organization of Retirees (ACTOR)
Amalgamated Clothing and Textile Workers Union—Chicago and Central States Joint Board
American Federation of State, County and Municipal Employees Council 31
American Friends Service Committee Great Lakes Region
American Income Life Insurance Company
Bensenville Senior Citizens Club
Broken Arrow
Diocese of Joliet Peace and Social Justice Ministry
Chicago Federation of Labor
Chicago Greens
Chicago Journeyman Plumbers Local 130
Chicago Recycling Coalition
Chicago Senior Senate
Coalition of Labor Union Women-Chicago Chapter
Colombia J/Human Rights Committee
Congregation of Alexian Brothers, Elk Grove Village
Congregation of Sisters of Saint Francis of Mary Immaculate, Joliet, Illinois
Democratic Socialists of America-Illinois
Diocese of Joliet Peace and Social Justice Ministry
Federation for Industrial Retention and Renewal
Greater Chicago Council of Senior Citizens
Greenpeace
Holy Cross/Immaculate Heart of Mary Parish Social Action Committee
Illinois Public Action
Illinois State Council of Carpenters
Illinois State Council of Machinists
Illinois State Council of Senior Citizens
Illinois Stewardship Alliance
Independent Voters of Illinois/Independent Precinct Organization (IVI-IPO)
International Association of Machinists Automobile Mechanics Local 701
International Association of Machinists Retirees Local 1487
International Association of Machinists Retirees Local 353
International Association of Machinists Local 113
International Brotherhood of Teamsters Local 706
International Brotherhood of Teamsters Local 743
International Brotherhood of Teamsters Local 714
International Ladies Garment Workers Union—Midwest Region
Joliet Franciscan Sisters
Lake Michigan Federation
Metro Seniors in Action
Midwest Center for Labor Research
Monsignor John Egan, DePaul University*
Motion Picture Projectionists, Operators and Video Technicians Local 110
National Coalition of American Nuns
National Farmers Organization
Nigaragua Solidarity Committee
Our Lady of the Ridge Parish Family
Palos Hills Seniors
Peoria Environmental Action Committee for the Earth
Prairie Preservation Society of Ogle County
Regional Association of Concerned Environmentalists
Samuel Levin Retirement Centre
Samuel S. Epstien, MD, Chairman Cancer Prevention Committee University of Illinois at Chicago School of Public Health
Save our Jobs Committee—Chicago
Schools Sisters of St. Francis
Service Employees International Union Illinois Council
Service Employees International Union Local 46
Service Employees International Union Local 73
Sheet Metal Workers Local 115
Sierra Club
SOAR Steelworkers Retirees
St. Nicholas of Tolentine Church, Chicago
St. Pius V Parish
Synapses
The Womens Office—Sisters of Charity, BVM
Thorium Action Group
United Auto Workers Union Region 4
United Auto Workers Retirees Local 59
United Auto Workers Retirees Local 152
United Auto Workers Retirees Local 588
United Food and Commercial Workers Union Local 546
United Food and Commercial Workers Local 881 Retirees
University Professional of Illinois Local 4100 IFT, AFT
U.S. Guatemala Labor Education Project
Viet Nam Veterans Against the War
Wellington Avenue United Church of Christ Outreach Committee
Women for Economic Justice
Women for Economic Security
Women for Guatemala
8th Day Center for Justice

IOWA

Catholic Rural Lie, Sioux City Diocese
Iowa Citizen Action Network
Iowa Family Farm Coalition
Iowa Farmers Union
Iowa Federation of Labor
Iowa Peace Network
Iowa National Farmers Organization
PrairieFire Rural Action
Rick Avery, United Auto Workers Local 997, Newton, Iowa*
Margaret Vernon, Des Moines Presbytery*
Jay Howe, Rural Caucus, Greenfield, Iowa*
Fr. John Cain, Coalition to Preserve the Family Farm*

MASSACHUSETTS

ACORN
American Friends Service Committee
Boston Committee in Solidarity with the People of El Salvador
Boston Mobilization for Survival
Central America Solidarity Association
Citizen Action of Massachusetts
Citizens for Participation in Political Action
Clean Water Action
Communications Workers of America, District One
Community Church of Boston
Democratic Socialists of America (Boston)
Gay and Lesbian Labor Activist Network
Grassroots International
Greater Roxbury Workers' Association
International Brotherhood of Teamsters Local 122
International Brotherhood of Teamsters Local 504
IUE Local 201
Jobs and Environment Campaign
Jobs with Justice
Lawrence Grassroots Initiative
Merrimac Valley Greens
Massachusetts Public Interest Research Group (PIRG)
Massachusetts Senior Action Council
Massachusetts Teachers Association
Massachusetts Toxics Campaign
Neighbor to Neighbor
Service Employees International Union Local 285
Service Employees International Union Local 509
United Electrical, Radio and Machine Workers, District Council Two
United Electrical, Radio and Machine Workers Local 204
United Electrical, Radio and Machine Workers Local 262
United Electrical, Radio and Machine Workers Local 271
United Steel Workers of America Local 12003 (Gas workers)
Western Massachusetts Coalition for Occupational Safety and Health
Women's Action Coalition

MINNESOTA

Amalgamated Clothing and Textile Workers Northern District Joint Board
American Federation of Television and Radio Artists—Twin Cities Local
American Federation of Grain Millers Local 118
American Federation of Grain Millers Local 264
American Federation of State County and Municipal Workers

Carpenter Local 1644
Catholic/Lutheran Northwestern Minnesota Rural Life Commission
Central Minnesota AFL–CIO Trades and Labor Assembly
Clean Water Action Alliance
Communications Workers of America Local 7200
Communist Party of Minnesota
Duluth AFL–CIO Central Body
Fair Trade Campaign
Guatemala Solidarity Committee
Institute for Agriculture and Trade Policy
International Association of Machinists Lodge 459
International Association of Machinists Air Transport District 143
International Association of Machinists Airline Local 1833
International Brotherhood of Teamsters Local 792
International Union of Electrical Workers Local 1140
International Woodworkers of America Local III–33
Justlife, Minnesota
League of Rural Voters
Millrights and Machinery Erectors Local 548
Minneapolis Central Labor Union Council
Minnesota Coalition of Labor Union Women
Minnesota Farmers Union
Minnesota Green Party
Minnesota Safe Food Link
Minnesota Women's Political Alliance
Minnesotans for Safe Food
National Organization of Women—Minnesota Chapter
Oil, Chemical and Atomic Workers Local 6–662
Oil, Chemical and Atomic Workers Local 6–75
Oil, Chemical and Atomic Workers Local 6–418
Oil, Chemical and Atomic Workers Local 6–409
Red Wing Area AFL–CIO Council
Resource Center of the Americas
St. Croix Valley Central Labor Union
St. Joan of Arc Catholic Church Peace and Justice Committee
St. Paul Trades and Labor Assembly
The Working Group on Economic Dislocation
United Church of Christ, Minnesota Conference
United Electrical, Radio and Machine Workers Local 1139
United Paperworkers International Union Local 264
United Steel Workers of America District 33
United Steel Workers of America Local 7263
Veterans for Peace, Minnesota Chapter
Women Against Military Madness
Women Religious for Justice

MISSISSIPPI

Jesus People Against Pollution, Marion County
Chisholm Community Improvement Project, Lincoln County
Tallahatchie County Union for Progress
MS Environmental Networking Group
Southern Echo
MS Association of Cooperatives
Federation of Southern Cooperatives (Regional)

MONTANA

Alternative Energy Resources Organization
International Brotherhood of Teamsters Local 2
International Brotherhood of Teamsters Local 190
Montana Audobon Society
Montana Farmers Union
Northern Plains Resource Council
Operating Engineers Local 400

NEW JERSEY

New Jersey Environmental Federation
Chemical Workers Association
Burlington Central Labor Council
Mercer Central Labor Council
South Jersey Work On Waste
Coalition of Union Retirees Organization
New Jersey Citizen Action

NEW YORK

Albany Public School Teachers Association
Albany Typographical Union
ACCESS/Attorney—Peter Hill, Oneonta
Amalgamated Clothing and Textile Workers Union, Glove Cities Area District, NY-NJ Regional Joint Board
American Lung Association of New York State
Americans Removing Injustice, Suppression and Exploitation (ARISE)
Animal Rights Action
Babylon Environmental Education Seminar
Capital District Labor and Religion Coalition
Central New York Labor Agency
Citizen Action of New York
Citizens Against Radioactive Dumping
Citizens' Environmental Coalition
Citizens of Wyoming County
Coalition on West Valley Nuclear Wastes
Communication Workers of America Local 14164/Tri County Labor Council—Elsa McDonald, Business Agent
Communication Workers of America Local 1118
Communication Workers of America Local 1127
Cornerstone Project for Sustainable Agriculture
Don't Waste Connecticut
Don't Waste New York
Earth Island Institute
Environmental Research Foundation
Farmworker Legal Services of New York
Five Towns Forum
Fort Crailo Neighborhood Association
Great Neck SANE/ Peace Action
Greenworking
Huntington Peace Center
Industrial Workers of the World
Injured Workers of New York
International Association of Machinists and Aerospace Workers—William Sparro, Business Rep., Elmira
International Association of Machinists and Aerospace Workers District 58
International Brotherhood of Electrical Workers/Binghamton
Long Island Alliance for Peaceful Alternatives
Long Island Progressive Coalition
Marxist Forum of Great Neck
Nassau Democratic Socialists of America
New York Coalition for Alternatives to Pesticides
New York State Grange
New York State Greens
New York State Labor and Environment Network
New York State Sustainable Agriculture Working Group
Oil, Chemical and Atomic Workers International Union
Protect a Clean Environment (PACE)
Radioactive Waste Campaign
Rainbow Alliance for a Clean Environment
Research and Education Project of Long Island
Rural Opportunities, Inc., Safety and Health Unit
Scenic Hudson, Inc.
Security and Law Enforcement Employees Council 82, American Federation of State, County and Municipal Employees, AFL–CIO
Service Employees International Union Local 200D
Sierra Club Atlantic Chapter
South Shore Citizens for Survival
Syracuse Peace Council
Syracuse Real Food Coop—Larry Rutledge, President
Transport Workers Union Local 100
United Auto Workers Local 624
United Auto Workers Local 1686
United Electrical, Radio and Machine Workers of America
United Paperworkers International Union Region II
United Steelworkers of America
United We Stand America—Vincent Stark, Gilbertsville
United We Stand America—Vincent Stark, Gilbertsville
United We Stand America—James A. Zuch, Syracuse
Work and Environment Initiative

OKLAHOMA

Oklahoma Organic Association—Gordon Graham, President
Oklahoma Toxics Campaign—Earl Hatley, Director
Sierra Club—Mike Arnett, Regional Chair Oklahoma City

OREGON

Amalgamated Clothing and Textile Workers Union
Central America Task Force
Central Oregon Forest Issues Committee
Committee in Solidarity with the Central American People
Friends of British Columbia Forests
International Association of Machinists and Aerospace Workers
International Chemical Workers Union, Local 109
Labor-Environment Solidarity Network
Kalmiopsis Audubon Society
Native Forest Council
Northwest Coalition for Alternatives to Pesticides
Northwest Environmental Advocates
Northwest Farmers Union
Northwest Oregon Local Council
Oil, Chemical and Atomic Workers International Union
Oregon AFL–CIO
Oregon Grassroots
Oregon League of Conservation Voters
Oregon Natural Desert Association
Oregon Natural Resources Council
Oregon Peaceworks
Oregon Tilth
Oregon Wildlife Federation
Pacific Party
Portland Central American Solidarity Committee
Portland Jobs with Justice
Portland Peace Works
Portland Rainbow Coalition
Sierra Club, Oregon Chapter
United Consumers of Oregon
United Steelworkers of America District 38
Women's International League for Peace and Freedom
Woodworkers Division, International Association of Machinists

VERMONT

Food & Water, Inc.
International Brotherhood of Teamsters

Peace and Justice Coalition
Rural Vermont
Sierra Club
United Electrical, Radio, and Machine Workers of America
Vermont Jobs with Justice Coalition
Vermont Natural Organic Farmers Association
Vermont Public Interest Research Group
Vermont State Labor Council, AFL-CIO

WASHINGTON

Friends of the Earth
Northwest Office
Northwest Sierra Club
Washington Toxics Coalition
Washington State Rainbow Coalition
Washington Biotechnology Action Council

WISCONSIN

Allied Council of Senior Citizens of Wisconsin
Amalgamated Clothing and Textile Workers Union Wisconsin District
A.O. Smith Steelworkers DALU Local 19806
Citizens for Fairness to U.S. & Mexico Workers
HONOR, Inc.—Honor Our Neighbors Original Rights
International Ladies Garment Workers Union District 3
Jobs with Peace
League of Rural Voters
Milwaukee County Labor Council
United Electrical, Radio, and Machine Workers of America. Wisconsin
University of Wisconsin Greens
University of Wisconsin at Milwaukee Latino Student Association
University of Wisconsin at Milwaukee Student Association
United Paperworkers International Union Local 7232
Wisconsin Citizen Action
Wisconsin Family Farm Defense Fund
Wisconsin Farmers Union
Wisconsin Farmland Conservancy
Wisconsin Greens
Wisconsin Injured Workers Vocational Rehabilitation Center
Wisconsin Milk Marketing Cooperative
Wisconsin Public Interest Research Group (WISPIRG)
Wisconsin Sierra Club
Wisconsin United We stand America
Wisconsin for Peace

*Organization listed for identification purposes only.

Mr. HOLLINGS. Mr. President, I ask unanimous consent that an article by Edward Luttwak in the Sunday Washington Post, "Will Success Spoil America?" be printed in the RECORD at this point.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Washington Post, Nov. 27, 1994]

WILL SUCCESS SPOIL AMERICA?—WHY THE POLS DON'T GET OUR REAL CRISIS OF VALUES

(By Edward N. Luttwak)

Having tried George Bush, who showed himself blithely unaware of the very existence of the problem, and having tried Bill Clinton, who spoke as if he knew all about it but failed to act, the American electorate has now given a two-year opportunity to the congressional Republicans to show that they can understand the problem and also come up with valid remedies.

The problem in question is the unprecedented sense of personal economic insecurity that has rather suddenly become the central phenomenon of life in America, not only for the notoriously endangered species of corporate middle managers, prime targets of today's fashionable "downsizing" and "reengineering," but for virtually all working Americans except tenured civil servants—whose security is duly resented.

Individual Americans who are neither economists nor statisticians do not focus on the economy's overall rate of growth, but rather on the security of their own jobs. Hence the vigorous recovery that provoked the Federal Reserve's anti-inflationary crusade cannot assuage personal fears. And the source of these fears is obvious: The once highly regulated and internationally dominant U.S. economic system has given way to a far more dynamic but also much more unstable turbo-charged capitalism open to the world's competition, in which no single firm, no particular industry and certainly no job or self-employment niche can be secure any longer. However tiny its effect, the General Agreement on Tariffs and Trade (GATT) Treaty now before this lame-duck Democratic Congress, can only add to those worries.

There is nothing new about the "creative destruction" of free competition. Only if outdated economic structures and obsolete working methods are first swept away, freeing up their human and material resources, can more efficient structures and methods arise in their place. What is new is only a matter of degree, a mere acceleration in the pace of structural change at any given rate of economic growth. But that, as it turns out, is quite enough to make all the difference.

The rise and decline of skills, firms and entire industries is now quite rapid even when there is zero growth, becoming that much faster when the economy does grow. In the process, the most enterprising or most fortunate individuals are offered more opportunities for rapid enrichment than ever before, and even tiny firms can aspire to fabulous growth. (Microsoft, born 1975, is the classic example). At the same time, however, the great majority of individuals has experienced not only unprecedented job upheavals, but also an absolute 20-year decline in personal earnings.

Republicans of the "family values" persuasion should have been the first to recognize that more disruptive change has been inflicted on working lives and entire industries than the connective tissue of many families and communities has been able to withstand. As it is, only a few paleo-conservatives of Pat Buchanan's persuasion have recognized the far-from-mysterious economy-society connection. Hence in the standard two-part Republican political speech, Part I still celebrates the virtues of dynamic economic growth, propelled by technological progress, deregulation and free trade, while Part II mourns the decline of the family and community "values" eroded precisely by the constant dislocations caused by our turbo-charged economy.

So far, the blatant contradiction at the very core of what has become mainstream Republican ideology ("family values" and dynamic economic growth) has gone mostly unremarked. And in any case it is not the Democratic Party as it now defines itself that can benefit from the Republican contradiction. Americans who work and earn but who fear for their economic future cannot benefit from what the Democrats have to offer: more taxes, more redistribution and more favors for any group that can claim victim status.

Both political parties promise more growth through the magic of an unfettered economy. But what most working Americans now seem to want is not the possibility of better jobs or higher incomes through growth, (because they have seen that it need not increase their earnings) but rather security for the jobs and income they already have.

A vast segment of the political spectrum is thus left vacant by the mainstream Republican contradiction on the one hand, and by mainstream Democratic "assistentialism" on the other. That was the space briefly occupied during the 1992 election year by the caprices of Ross Perot, who burdened his core message of personal economic security with strange preoccupations. And that is the space that the Republicans will leave vacant for another third-party candidate if they do not address the problem of personal economic security by 1996.

Perhaps the most obvious cause of accelerated structure change is the retreat of government regulatory controls. (Actually the totality of regulations continue to increase, but commercial as opposed to health, environmental and anti-discriminatory regulation has certainly diminished, and continues to do so.) With that, competition and efficiency both increase and once secure enterprises must face the full perils of the market.

The airline industry is the exemplary case. When still highly regulated, the moderately inefficient airlines were consistently profitable, commonly offering lifetime jobs for all their employees. While their profits were not spectacular, they earned enough to pay both rank-and-file and management employees rather well, and to serve as a stable and rich customer base for the aircraft industry.

Today's deregulated industry by contrast, consists largely of airlines perpetually within sight of bankruptcy, which they try to avert by extreme cost-cutting (service standards have notoriously collapsed) and desperate marketing maneuvers. Almost all have imposed serious wage reductions, layoffs or both. By contrast, almost all now pay much, much more to their top managers. And all surviving airlines offer such low domestic fares that, unlike the days of regulation, even Americans with ample free time and/or low income now habitually travel by air.

Airline deregulation has also destabilized the aircraft industry. Domestic airlines fly more aircraft than before, but tend to keep them until they are worn out. Lockheed has stopped manufacturing airliners altogether; McDonnell Douglas is too weak financially to develop any new airlines on its own (and seeks Asian risk-sharing partners at the price of sharing its key technologies); and Boeing's future is secure only because of sales to foreign airlines—most of which are still highly regulated.

Overall, airline regulation served the interests of Americans-as-producers, at the expense of Americans-as-consumers. Now it is the other way around. From a strictly economic point of view, the greater efficiency brought about by cut-throat competition may justify all. But from a social point of view there is no such compensation.

With its stable, well-paid jobs the regulated airline industry of the past obviously contributed to family and social stability. By contrast, today's chaotically unstable airlines are very disruptive for families and communities, as they rapidly expand or drastically shrink over a matter of months or even weeks, as they shift hubs and maintenance bases, each time hiring and firing employees in their constant maneuvering for

market survival. It would be a nice bit of sociological research to calculate the number of divorces and problem children caused by deregulation-induced economic stresses on the families of airline employees.

Partly because there are no such statistics, we are accustomed to simply ignore the non-economic consequences of de-regulation, not just in the airline industry but in all industries. Yet it is intuitively obvious that social losses must outweigh economic gains in many cases.

Another obvious cause of accelerated structural change in the U.S. economy is the rather sudden computerization of office work. After being long delayed, the increased efficiencies that electronic computation, data storage, reproduction and internal communication machines were supposed to achieve bit by bit, finally arrived in bulk during the 1980s. Partly because even senior managers can now work these machines; partly because junior managers are increasingly compelled to use those machines in place of clerical help; and partly because "local-area networks" allow managers at the next level up literally to oversee the work that their subordinates are doing or not doing—for all these reasons the computerization of office-work has suddenly become a near-universal reality. With that, white-collar workers too are now exposed to the mass firings and diminishing employment prospects that have long been the lot of blue-collar workers in mature industries.

Management consultants prattle about "re-engineering the corporation," but the very real economies that Wall Street anticipates by bidding up the shares, thereby enriching top executives with stock options, come not from the background music of management-consulting jargon but rather from the firing of telephone-answering secretaries replaced by voice-mail systems,of letter-writing secretaries replaced by word-processing and fax-boards, and of filing secretaries replaced by electronic memories, with the resulting elimination of their clerical supervisors, and the middle managers who used to supervise those supervisors.

That is why businesses whose revenues and profits are increasing nicely in the present recovery are nevertheless not adding white-collar or middle management positions; why businesses whose revenues and profits are stable are eliminating quite a few of those positions; and why businesses in decline are drastically reducing both white collar and management positions.

To be sure, technological progress also allows many new jobs to emerge, often very good ones. Unfortunately, as the continuing decline in the average hourly earnings of all employed Americans proves beyond a doubt, the loss of a great many so-so white collar jobs continues to outweigh increases in exciting new-technology jobs. A recent highly optimistic column by Robert J. Samuelson inadvertently showed why the totality of new jobs is not a satisfactory replacement for the old white collar jobs that have been lost.

The Samuelson list included such classic new-tech companies as Intel, Microsoft, Apple Computer and Genentech. Simple arithmetic, though, showed that all the companies in the list employed a grand total of 62,500 people—only 500 more than Home Depot alone, a retail chain that offers mostly low-paid and part-time jobs.

That indeed is the true destination of most fired white-collar workers; lower-status jobs in retail sales or other cheap services, with diminished earnings, smaller fringe benefits, and scant if any job security. (Since the table was published there have been mass firings at Apple). It is interesting to note that the table also included Nike, which manufactures mostly outside the United States, and Southwest Airlines, a non-union company that pays the lowest wages in the industry, forcing competing airlines to do the same in each regional market it moves into.

Once again, as with deregulation, structural changes induced by the arrival of new technologies are undoubtedly increasing the total efficiency of the U.S. economy. The trouble is that they are enriching only the architects of change and those who can invest in their ventures, while impoverishing a net majority of all working Americans.

The most blatantly obvious (if not most important) cause of structural change is the so-called "globalization" of the U.S. economy. Negotiated trade agreements, including the new GATT Treaty have been only one factor in increasing the exposure of the economy to the competitive pressures and opportunities of the global marketplace. Other factors include cheap and instant telecommunications that ease the formation of new commercial relationships; the diminishing incidence of transport costs and the hammering down of once diverse consumer preferences into uniformity by trans-national mass media imagery and advertising.

Globalization means that U.S. sales of goods or services can expand far beyond the limits of the domestic market—and of course that the U.S. production of many kinds of goods and services, and the related employment, can be displaced at any time by cheaper production from someplace else in the world. True, globalization as such does not determine U.S. wage levels. Even the U.S. worker who happens to be competing head-on with an Indian counterpart is paid according to the supply and demand for his skills in the U.S. labor market, and not the Indian market. But life for the vast number of Americans who now participate in the global economy, wittingly or unwittingly, is full of exciting surprises and catastrophic downfalls.

Viewed in the very narrow national-accounting perspective of all our globalization debates, whether NAFTA last year or the GATT Treaty now, any increase in the combined income of all Americans—no matter how unevenly distributed—fully justifies going ahead to globalize some more. On that there seems to be a perfect consensus between mainstream Democrats and mainstream Republicans. Both take it for granted that globalization has increased and can continue to increase the country's total GNP (true), that it must therefore increase the income of all Americans or at least most of them (false), and that because protectionism is always bad for U.S. consumers (true), it must always be bad for the country (false).

What is missing is anything resembling a social perspective. In fact it is simply taken for granted that economic efficiency must never be compromised in the slightest to suit the needs of society. That would make perfect sense if the United States were a very poor country with a perfectly peaceful and tranquil society. As it is, the United States has much more wealth than social tranquility and would benefit much more from economic stability than from further economic growth, inevitably achieved by disruptive structural changes of one kind or another.

If one does take into account the psychological and practical need of families and communities for a reasonable degree of stability, very different criteria apply to globalization as well as to deregulation.

Those are the very criteria that have shaped Japan's protracted resistance to the globalization of its own economy, as well as to deregulation. U.S. trade negotiators are forever arguing the merits of free markets, but the overall purpose of Japan's many overt and covert trade barriers and domestic regulations is precisely to protect Japanese society from the disruptive effects of any competition, foreign or domestic. Small shopkeepers are protected by a Large-Scale Retail Law that greatly restricts the spread of chain stores, supermarkets and department stores. Craftsmen threatened by cheaper imports are protected by unwritten customs house conspiracies as well as overt barriers. And many industries, including low-tech paper and plywood, have their own informal protective arrangements, while high-tech industries are officially assisted as well as protected. As a result, Japanese-as-consumers must pay very high prices, but Japanese-as-producers enjoy all the benefits of personal economic security.

American visitors immediately notice the tranquility of Japanese crowds, and the conspicuous absence of the free-floating anger that has become a sinister feature of American life, and a deadly one at time. They must attribute all this calm to the homogeneity of Japan's population, or its ancestral discipline. But they would be wrong: Before its all powerful bureaucracy stabilized Japan's economy with its regulations and protectionism, the country witnessed a great many very violent strikes, any number of political assassinations and frequent mass demonstrations that often degenerated into outright street fighting.

To be sure, the Japanese system sacrifices economic efficiency at every turn, and the consumer pays the price every time. It is a fact that the actual Japanese standard of living is on average much lower than the American, even though average Japanese money incomes are now substantially higher.

But that is a very incomplete truth, for it only includes purely material factors, overlooking society-wide considerations that count for much more—even in purely monetary terms.

When I drive into a gas station in Japan, three or four clearly underemployed young men leap into action to wash and wipe the headlights and windows as well as the windscreen, check tire pressures and all the different oils, in addition to dispensing the fuel. For that excellent service, I have to pay a very high price for the gasoline. The Japanese bureaucracy, determined to protect those low-end jobs for youths who lack the talent for better employment, as well as small gas stations in rural areas, flatly prohibits self-service gas pumps, and in any case forces all gas stations to compete by offering lavish service because fuel prices are fixed by the government and price-cutting is banned.

Back in America, I fill my own tank much more cheaply from a self-service pump, but there also three or four young men are waiting—sometimes in person but certainly by implication. But because they are not employed by the gas station, or by anybody else, I do not have to pay their wages through government-imposed high prices for my gas. That is where U.S.-style economic analysis stops: Japanese consumers are being exploited, while the free market provides American consumers with cheap gas.

But in reality, I still have to pay for those young men who are not employed by the gas

station. My car insurance rates are higher because of their vandalism and thefts, my taxes must be higher to pay for police, court and prison costs and even a little by way of welfare benefits. If I am very unlucky, I may have to pay in blood. In a recent article on a Washington youth who killed a Korean immigrant at the age of 17, while absent from a psychiatric clinic where he had been sent for killing a taxi driver at the age of 15, it was parenthetically noted that more than $100,000 had been spent on his psychiatric treatment; his 30-year prison term will cost another $750,000 or so.

Not counting two deaths and his trial costs, the cost of not employing that one youth would pay for at least 37,777 gallons of gasoline—even at very high Japanese prices. American free-market gasoline is thus very expensively cheap, as compared to Japan's employment-generating, cheaply expensive gasoline.

There is no assurance of course that those young men whom I see loitering would actually take gas station jobs if any were available for them. But what is certain is that in Japan the government acts to ensure that there are job openings for youths incapable of more demanding employment, while in the United States, nothing must stand in the way of free-market efficiency, very narrowly defined to exclude any and all social consequences.

As it happens, in Japan even the bureaucracy is now beginning to discuss deregulation. But the currently victorious Republicans might still benefit from glancing over at the Japanese model. As of now, we have not only unemployed youths but also a great many small-town shop-keepers facing the relentless spread of Wal-Mart and its ilk; textile workers imminently threatened by imports and employees everywhere caged with corporate tigers out to fire them if they possibly can.

If the Republicans too only offer more economic growth and yet more social disruption, by 1996 the electorate will be ready to try out whatever third party comes along—or lacking that it may even vote for the Democrats if only to show its displeasure once again.

Mr. HOLLINGS. Mr. President, I ask unanimous consent that a letter from Public Citizen to Ambassador Kantor be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

August 3, 1994.

Hon. MICHAEL KANTOR,
600 17th Street N.W.,
Washington, DC.

DEAR AMBASSADOR KANTOR: Critics and supporters of the Uruguay Round GATT agreements agree that they are far-reaching in their impact. The decision about whether the agreements should be approved in their present form and whether the United States should enter the World Trade Organization (WTO) should be made carefully and cautiously, after full and informed debate and discussion among the American people.

As the negotiator and prime supporter of the trade pact, you wish to emphasize what you believe to be the positive features of the agreements and the WTO. As a government official, however, you have an obligation also to honestly and reasonably report on—and at least acknowledge—ambiguities or drawbacks contained in the agreements you are advocating.

As the debate over the WTO and the new GATT has proceeded, you and your deputies have increasingly slighted this public official duty. Your response to detailed criticisms or carefully expressed concerns has been to dismiss the critics as ill-informed or to answer them with misleading statements, distortions and deceptions.

The purpose of this letter is to rebut, for the public record, a number of your long list of erroneous statements, and to urge you to reconsider your approach to the WTO-GATT debate and to give the American people a decent interval of time to digest the WTO-GATT proposal.

Erroneous Statement Number 1: The World Trade Organization is not much different than the existing GATT, thus fears about sovereignty are misplaced.[1]

Correction: The existing GATT is an international business contract between nations (like NAFTA) who are called contracting parties. Congressional approval of the Uruguay Round would make the United States a member of a permanent new global trade agency, the World Trade Organization (WTO). The WTO would: maintain an international "legal personality" akin to the United Nations;[2] possess on-going rule making capacity;[3] and operate a binding dispute resolution system whose decisions would be enforced with trade sanctions and fines.[4]

The creation of a new standing organization has great significance. As a contractual arrangement rather than an independent actor, GATT has owed its political legitimacy to the consent of the GATT contracting parties. GATT has been cautious in taking actions without express authorization, and, because signatories to GATT did not cede any power to a standing organization, has operated almost exclusively by consensus.

A vote for the Uruguay Round would dramatically alter both the political and legal status of the GATT/WTO. Reflecting the WTO's legal status and enhanced political authority, important decisions under the WTO regime would be made by one-country, one-vote voting.[5]

Unlike GATT, the World Trade Organization includes an affirmative international obligation to "ensure the conformity of [a country's] laws, regulations and administrative procedures" with the WTO rules.[6] In its April 1994 report on U.S. laws that allegedly violate the WTO mandate, the European Union lays out the U.S. obligation clearly: "The comprehensive multilateral dispute settlement mechanism which has been agreed upon in the framework of the World Trade Organization will . . . oblige [countries] to bring their domestic legislation into conformity with all of the Uruguay Round agreements.[7]

Erroneous Statement Number 2: The WTO will operate by consensus; "[in] fact, Article IX of the WTO Agreement codifies what was merely a custom in the GATT. It makes consensus the governing principle for WTO for decision-making."[8]

Correction: The Administration has regularly cited only a portion of the relevant WTO agreement provision on decision-making. Administration officials refer to the first sentence of Article IX-1 of the Agreement Establishing the WTO. "The WTO shall continue the practice of decision-making by consensus followed under the GATT, . . ." But Administration officials consistently fail, in Congressional testimony and otherwise, to cite the next sentence, which reads, "Except as otherwise provided, where a decision cannot be arrived at by consensus, the matter at issue shall be decided by voting—each member of the WTO shall have one vote."[9]

Important decisions that would be made by majority and supermajority voting, instead of consensus, include: decisions to amend the WTO rules;[10] interpretations of the WTO rules;[11] decisions to allow additional countries to become WTO Members;[12] and decisions to start new negotiations and implement the results of such negotiations.[13] Decisions to adopt the ruling of WTO dispute resolution panels would be taken by reverse consensus, requiring all countries to agree not to adopt a panel ruling.[14]

Indeed, rather than consensus decision-making being the rule under the proposed WTO, it is the specifically cited exception, and is only specifically cited in the WTO Agreement in the context of amendments to five specific WTO or GATT articles.[15]

Erroneous Statement Number 3: Under the WTO, no substantive change in the rights and obligations of the United States can occur under any of its provisions unless the United States agrees to it.[16]

Correction: USTR's claim that no decisions affecting U.S. "rights and obligations" under the WTO can be taken without its agreement is clearly undermined by the provisions on initiating and implementing new negotiations by a majority vote of the Ministerial Conference.[17] However, even under Article X of the Agreement Establishing the WTO, which provides special procedures for amending provisions that would alter a WTO Member's rights and obligations, the decision about whether a proposed amendment does alter such rights and obligations is taken by a three-fourths vote.[18] If a three-fourths majority agrees that such rights and obligations are not affected, then amendments can be voted by a two-thirds majority with the results binding on all Members.[19] Even if three-fourths of the WTO Members decide that a proposed amendment does alter rights and obligations and the amendment is adopted by a two-thirds vote and only applies to the members voting for it, a three-fourths vote of the WTO Members can decide whether the Members who do not accept the amendment shall still be allowed to remain Members.[20]

Erroneous Statement Number 4: The existing GATT provides for majority voting, thus the Uruguay Round is "much more protective of U.S. sovereignty" by moving decision-making from majority to supermajority voting.[21]

Correction: Because the International Trade Organization (ITO) proposed in 1947 was not approved by the U.S. Senate, GATT has never had the political legitimacy to activate its voting rules. GATT virtually never operated by any voting. The last GATT vote was in 1959. In fact, as USTR regularly emphasizes in other contexts, GATT decisions are made by consensus. Thus, the real change with the establishment of the WTO is the switch from consensus decisionmaking to one-nation, one-vote voting.

This change effectively eliminates the veto the United States has enjoyed as a sovereignty safeguard under the existing GATT. Under the WTO, the United States would not maintain the effective veto now provided by consensus decision-making in dispute resolution and other decisions under the current GATT.

In the context of dispute resolution, the United States would specifically lose a veto which it has had available under the existing GATT and used to stop the 1991 tuna-dolphin

Footnotes at end of letter.

ruling. The WTO's proposed dispute settlement process would be unique among international organizations in requiring consensus to stop action rather than consensus to commit a sovereign nation to international action. The rulings of the WTO's dispute resolution tribunals would be automatically adopted 60 days after publication, unless every WTO Member, including the victorious plaintiff nation, opposes adoption.[22] (An internal appeal is provided with a similar negative veto which would be required to stop adoption for its ruling.[23]) Similarly, if the United Stats refused or failed to repeal or revise a law held to be an illegal trade barrier, after a set number of days, the WTO would automatically authorize trade sanctions unless every WTO Member including the complaining nation opposed sanctions.[24]

In non-dispute resolution contexts, there is no veto because there is no consensus decision-making either, except for five WTO or GATT articles specifically listed under Article X-2 of the Agreement Establishing the WTO for which consensus is required to approve an amendment.

In sum, not only does the United States lose the veto it now has under the current requirement of consensus to adopt a panel ruling and consensus to authorize sanctions, it would now (after an unfavorable WTO tribunal ruling) have to build a unanimous consensus just to stop WTO action against it.

Erroneous Statement Number 5: Congress maintains full control over the passage, maintenance and repeal of U.S. laws under the World Trade Organization's regime.[25] "A WTO dispute settlement panel recommendation has no effect on U.S. law."[26]

Correction: While it is true that only Congress can establish, alter or repeal a federal law, WTO tribunals would have the authority to determine the WTO-legality of U.S. laws and to exert enormous pressure on the United States to alter laws found "WTO-illegal." The WTO could force Congress into making a cruel choice: either alter or repeal a law determined to be WTO-illegal or face perpetual trade sanctions against any U.S. industry the winning country chooses.[27] Moreover, the threat of such challenges and the ensuring no-win dilemma would have a chilling effect on Congress, deterring the legislature from passing laws that are claimed by opponents in the United States and in other WTO nations to be WTO-illegal; and the threats would also have a chilling effect on proposals by both agencies and citizen groups.

Erroneous Statement Number 6: Countries won't follow through in using WTO-authorized sanctions against the United States because the United States is the largest trading nation in the world and other countries would be reluctant to run the risk of closing themselves off from U.S. markets.[28]

Correction: Logically, the administration cannot have it both ways. The WTO cannot be a big stick to open markets when wielded by the United States, yet a limp reed when held by others over the United States. Either no WTO Members—including the United States—will use the powerful new dispute resolution mechanism, or the United States and other countries will use it.

The WTO—with its automatic imposition of perpetual fines or perpetual cross-sector retaliatory sanctions in cases where a domestic law that if found to be WTO-illegal is not altered or eliminated—would give foreign countries enormous leverage over the United States. Moreover, unlike NAFTA, the WTO member countries would include two major trading powers: Japan and the European Union. Both have threatened trade measures against the United States when displeased by U.S. trade behavior before, as has Canada. Under the WTO, these countries would be authorized to take such actions against the United States with full approval and support of a global agency and its Members.

Finally, it is peculiarly reprehensible to state, as the Administration prepares to enter the United States into a powerful new international organization with a vast array of attendant obligations, that the United States does not intend to respect its international commitments.

Erroneous Statement Number 7: WTO dispute settlement panels do not have the power to make "decisions" or impose solutions. Panels will issue reports containing their views on the dispute and a recommendation to the dispute parties.[29]

Correction: The actual language of the Dispute Settlement Understanding paints quite a different picture. It reads, "Within sixty days of issuance of a panel report to the Members, the report shall be adopted at a DSB (Dispute Settlement Body) meeting unless one of the parties to the dispute formally notifies the DSB of its decision to appeal or the DSB decides by consensus not to adopt the report."[30] Appeals are limited to a review of the application of GATT rules to the facts and must be completed in 60 days.[31] "An appellate report shall be adopted by the DSB and unconditionally accepted by the parties to the dispute unless the DSB decides by consensus not to adopt the appellate report within thirty days following its issuance to the Members."[32] "Where a Panel or Appellate Body concludes that a measure is inconsistent with a covered agreement, it shall recommend that the Member concerned bring the measure into conformity with that Agreement".[33] "Compensation and the suspension of concessions or other obligations are temporary measures available in the event that the recommendations and rulings are not implemented within a reasonable period of time."[34]

In summary, once a three-person tribunal rules and its decision is approved by the internal WTO appellate body (if an appeals is even taken), the decision is final, unless all members of the WTO arrive at a consensus to reject the tribunal decision. Then a country must change its law or face sanctions.

Erroneous Statement Number 8: The United States can maintain any food safety or environmental standard as long as it based on science.[37]

Correction: "Based on science" is only one of a series of tests in the Uruguay Round food standards that U.S. food laws must pass to avoid being labelled an unfair trade barrier that must be eliminated.[38] In fact, even supporters of the Uruguay Round have admitted to the National Journal that many U.S. laws would not meet some of the proposed WTO requirements.[39]

The most worrisoms tests are those specifying the means a country may use to obtain even a WTO-legal objective. Two such "means" tests are the "least trade restrictive" means test and a rule prohibiting countries from distinguishing products on the basis of how they were produced. (For instance, protecting dolphins by distinguishing between fishing techniques that are dolphin safe and those that kill large numbers of dolphins.)

Under the least trade restrictive rule, a U.S. law would fail to pass WTO muster—no matter how acceptable the law's goal might be in WTO terms—if the means used to accomplish that goal is not the least trade restrictive.[40] Congress would have to repeal or alter any law found to have failed this test by a WTO tribunal, or the United States would face perpetual fines or trade sanctions. Indeed, in our February 1993 meeting, you acknowledged your own concern about the "least trade restrictive" test, which you said you were able to limit somewhat in NAFTA.

As for the prohibition on distinction based on "process standards," in early 1993, you expressed dismay to a large gathering of environmental and consumer representatives about the application of this rule to the U.S. Marine Mammal Protection Act in the successful 1991 Mexican challenge of that U.S. law. As applied in the GATT tuna-dolphin cases, this rule required the United States to treat tuna caught with methods that result in high dolphin-kill rates and that caught with dolphin-safe methods the same. Applied in another context, it could require the United States to treat goods made with ozone-depleting processes and those made with other methods in the same fashion if the goods were physically the same.

The least trade restrictive means test and process-distinction tests have been the basis of the two recent GATT challenges to U.S. environmental laws, and that was before those rules were specifically enumerated in the test, as they are in the Uruguay Round proposal. In the tuna-dolphin challenge, the United States lost the case because it distinguished on the basis of process—not because of any purported failure to base the law on science. In the European Union challenge to the U.S. CAFE and gas guzzler fuel efficiency standards (a challenge which the United States has been widely predicted to lose), the challenging parties agreed that the U.S. goal of fuel efficiency is allowable and do not question the scientific justification of the goal or the scientific efficacy of the United States means to achieve it; the dispute is over the political issue of how the goal should be achieved, including whether it is through minimum automobile miles-per-gallon standards or a carbon tax.

Finally, as an aside, it important to note that the "based on science" test itself is neither as simple or objective as you imply. Application of the test will be made by the secret WTO tribunals, whose members are trade experts, not scientists or even lawyers or officials with a background in consumer, environmental or related matters. This method itself, especially the secrecy, is quite an unscientific way to proceed.

Erroneous Statement Number 9: The Uruguay Round rules do not require downward harmonization.[41]

Correction: While harmonization is required in both the food and technical standards chapters,[42] it is not specifically labelled as upwards or downwards harmonization. However, the rules that make up those chapters will result in downward harmonization of strong U.S. standards.

First, under the WTO's two standards chapters, a domestic law can be found to be a trade barrier because it is stronger than international standards, but not because it is too weak. Only laws that are stronger than named international standards will be subject to a battery of tests in order to establish that they are not illegal trade barriers that must be eliminated. Meanwhile, with the exception of prison labor,[43] no country's law can be attacked as WTO-illegal because it provides too weak protection to the environment or to consumer or worker safety and health.

Second, both the food and technical standards texts require countries to base their standards on specified international standards. Standards issued by several of the international standard-setting bodies are weaker than current U.S. domestic laws and regulations require. For technical standards—all non-food standards such as product safety or environmental rules "where technical regulations are required and relevant international standards exist or their completion is imminent. Members shall use them, or the relevant parts of them, as a basis for their technical regulations, except when such international standards * * * would be an ineffective or inappropriate means for the fulfillment of the legitimate objectives pursued, for instance because of fundamental climatic or geographical factors or fundamental technological problems."[44] In the food area, domestic standards also must be "based on" the named international food standards of the Codex Alimentarius Commission.[45] According to the General Accounting Office (GAO), the United States established more health protective pesticide standards in 66 percent of the cases where the comparison could be made.[46]

Erroneous Statement Number 10: It is unlikely that there will be many challenges brought under the Uruguay Round agreements against U.S. Laws.[47]

Correction: Although the United States has often been a plaintiff in past GATT challenges, that will change under the WTO. The Uruguay Round would expand trade disciplines beyond the traditional trade matters in which the United States is situated to be a plaintiff and into non-tariff issues—namely the many standards setting environmental, health, labor and other requirements for products sold in the United States. In these areas, the United States is likely to be a defendant because of its more advanced health and safety protections. Moreover, the change to binding GATT dispute resolution (that would require a country to change laws found to be GATT-illegal, or accept sanctions or pay fines) from a system with largely advisory dispute resolution (a panel suggested a course of action that a country had to agree to) will in itself stimulate more cases. The long lists published in 1994 by the European Union, Canada, and Japan of laws they and their motivated domestic corporate interests consider to violate the new rules illustrate the magnitude of the risk to domestic U.S. federal and state laws and standards.

Erroneous Statement Number 11: It is very unlikely that there will be many challenges brought under the Uruguay Round agreements against state laws.[48]

Correction: In addition to the general incentives the Uruguay Round presents to foreign countries to challenge many U.S. laws, the proposed new substantive trade rules—such as those requiring consistency of level of risk—provide many new tools for challenges of state laws merely because they are different than federal laws.[49] While the European Union, Canada and Japan have published lists of laws they consider to violate GATT in previous years, this year's reports, which are based on the proposed new Uruguay Round rules, contain extensive new lists of state environmental, health, tax and other laws.

The European Union's "Report on United States Barriers to Trade and Investment, 1994" goes so far as to attack the U.S. federalist system, and the diversity of rules and standards it encourages, as a trade barrier in itself. "There are more than 2,700 State and municipal authorities in the United States which require particular safety certifications for products sold or installed within their jurisdiction," the EU report complains. And it alleges, "Even if, in general, not intentionally discriminatory, the complexity of U.S. regulatory systems in this domain [technical regulations regarding consumer, health, safety and environmental protection] can represent a very important structural impediment to market access" (emphasis in original).[50]

Erroneous Statement Number 12: GATT rules will fully protect the right of any state to impose stringent health or environmental standards, including those more protective than federal standards.[51]

Correction: GATT's two standards chapters both directly threaten strong state environmental and consumer laws. For instance, the Technical Barriers chapter requires domestic standards to be based on international standards that are complete or near completion unless there are fundamental climatic, geographic or technological reasons not to use them.[52] That a state believes such international standards do not provide sufficient health or environmental protection is not a WTO-legitimate justification for departing from the international standard, much less a federal standard. The food standards contained in the Sanitary and Phytosanitary chapter specifically require domestic laws to avoid distinctions in the level of protection provided. "With the objective of achieving consistency in the application of the concept of appropriate level of sanitary and phytosanitary protection . . . each member shall avoid arbitrary or unjustifiable distinctions in the levels it considers to be appropriate in different situations . . ."[53] Although these rules also apply to federal law, as noted by the Attorneys General, state laws are especially at risk because of the very difference between federal and state standards that is the cornerstone of federalism. The WTO does not provide a federalism exception for such differences, nor does it limit the definitions of "arbitrary" or "unjustifiable" to allow differences between federal and state decision-makers facing the same data and risks in making different political decisions about how much risk to accept.

In our nation's history, the very absence of an international uniformity straitjacket (and the allowance for state diversity, within the limits of not arbitrarily burdening interstate commerce) has freed our country to lead the world rather than follow a lower common denominator.

Erroneous Statement Number 13: The unilateral trade measures of Section 301 remain usable under GATT.[54]

Correction: As virtually all commentators outside of the U.S. Trade Representative's office agree, the unilateral action provisions of Section 301 and its hybrids will not survive the WTO's Dispute Resolution Article 23. The Congressional Research Service's American Legal Division issued an opinion memo to Representative Cardiss Collins about Section 301 being effectively gutted by Article 23's ban on "unilateralism." Representative Richard Gephardt's office, having admitted that Section 301 would be unenforceable under the new rules for most uses, has tried unsuccessfully to find alternatives to trade sanctions to enforce some sort of unilateral trade measure. With regard to Section 301 and other U.S. unilateral measures, the government of Japan has written, "The United States' attitude of pursuing market opening in bilateral negotiations backed by the threat of sanctions is not compatible with the multilateral trade system of the GATT/WTO."[55] The European Union has also objected to the U.S. use of Section 301, as well as other unilateral trade measures, including those contained in environmental laws.[56]

With the debate over the WTO and the new GATT clouded by these and other erroneous USTR statements, it is difficult for citizens, the media or Representatives and Senators to make a reasoned assessment of the WTO–GATT proposals.

It is not too late to provide Congress and the American people with a full assessment of the impact on our democracy and standards of domestic justice posed by the WTO and the new GATT. Deferring the Congressional consideration of the WTO and the new GATT until next year would give the American democratic process a chance to work properly.

Sincerely,

Ralph Nader, Lori Wallach.

FOOTNOTES

[1] Written testimony of USTR Mickey Kantor before the Senate Commerce Committee, June 16, 1994; written testimony of Deputy USTR Rufus Yerxa before the Senate Foreign Relations Committee, June 14, 1994.

[2] Agreement Establishing the WTO, Article VIII–1 (to which treaty practice under the Vienna Convention would apply, according to Note to the Final Act Embodying the Results of the Uruguay Round of the Multilateral Trade Negotiations).

[3] *Id*, Article III–2; Agreement on Sanitary and Phytosanitary Measures, Articles 38–39 (establishing a Committee on Sanitary and Phytosanitary Measures, etc.).

[4] Dispute Settlement Understanding, Article 22.

[5] Agreement Establishing the WTO, Article IX–1 (describing voting procedures for amendments); Article III–2 (providing for anew negotiations upon simple majority voting of the "Ministerial Conference" of all WTO Members).

[6] *Id*. Article XVI–4.

[7] Services of the European Commission, *Report on United States Barriers to Trade and Investment, p. 7.*

[8] USTR Fact Sheet, *U.S. Sovereignty Under the World Trade Agreement; Debunking the Myths*, 1994; See also oral testimony of Deputy USTR Rufus Yerxa before the Senate Foreign Relations Committee, June 14, 1994, as transcribed by Federal News Service.

[9] Agreement Establishing the WTO, Article IX–1.

[10] *Id*. Article X (providing for assorted two-thirds and three-fourths supermajority voting rules).

[11] Id. Article IX–2 (providing for interpretations on three-fourths vote).

[12] *Id*. Article XII (providing for two-thirds votes on accessions).

[13] *Id* Article III–2 (providing for simple majority voting of the Ministerial Conference).

[14] Dispute Settlement Understanding, ¶ 16.4 (for panel rulings) and ¶ 17.14 (for appellate reports).

[15] *Agreement Establishing the WTO*, Article X–2.

[16] Oral testimony of Deputy USTR Rufus Yerxa before the Senate Foreign Relations Committee, June 14, 1994, as transcribed by Federal News Service; Oral testimony of USTR Mickey Kantor before the Senate Commerce Committee, June 16, 1994, June 14, 1994, as transcribed by the Federal News Service; USTR Fact Sheet, *U.S. Sovereignty Under the World Trade Agreement; Debunking the Myths*, 1994 ("The WTO Amendment provisions in Article X state that any substantive amendment takes effect for a member only if the country consent to it.").

[17] Agreement Establishing the WTO, Article III–2.

[18] *Id*. Article X–1.

[19] *Id*.Article X–4.

[20] *Id*. Article X–3.

[21] Oral Testimony of USTR Mickey Kantor before the Ways and Means Committee, June 10, 1994, as transcribed by the Federal News Service ("In many cases, decisions under the GATT could be made by a majority vote"). See also written testimony of USTR Mickey Kantor before the Senate Commerce Committee, June 16, 1994.

[22] Dispute Settlement Understanding, ¶ 16.4.

[23] *Id*. ¶ 17.

[24] *Id*. ¶ 22.6.

[25] This assertion has been made throughout testimony and other public statements. See e.g. written

testimony of USTR Mickey Kantor before the House Ways and Means Committee, June 10, 1994; and written testimony of Deputy USTR Rufus Yerxa before the Senate foreign relations, June 14, 1994.

[26] Memo to Congress, Nancy A. LeaMond, Assistant USTR for Congressional Affairs, July 19, 1994.

[27] Dispute Settlement Understanding, Article 22.

[28] Oral testimony of USTR Mickey Kantor before the House Ways and Means Committee, June 10, 1994, as transcribed by the Federal News Service, answering a question asked by Representative Newt Gingrich.

[29] USTR Fact Sheet, *U.S. sovereignty Under the World Trade Organization: Debunking the Myths*, 1994.

[30] Dispute Settlement Understanding, ¶16.4.

[31] *Id.* ¶17.6, ¶17.5.

[32] *Id.* ¶17.14.

[33] *Id.* ¶19.1.

[34] *Id.* ¶22.1.

[37] USTR Fact Sheet, *Questions and Answers for the State Attorneys General*, 1994.

[38] Agreement on Sanitary and Phytosanitary Measures.

[39] *National Journal*, July 16, 1994, p. 1686.

[40] Agreement on Technical Barriers to Trade, Article 2.2.

[41] Written testimony of USTR Mickey Kantor before the Senate Commerce Committee, June 16, 1994.

[42] Agreement on Sanitary and Phytosanitary Measures, Article 9–13; Agreement on Technical Barriers to Trade, Articles 2.4 and 2.6.

[43] GATT, Article XX-e.

[44] Agreement on Technical Barriers to Trade, Article 2.4.

[45] Agreement on Sanitary and Phytosanitary Standards, Article 9.

[46] General Accounting Office, *International Food Safety: Comparison of U.S. and Codex Pesticide Standards*, August, 1991, p.28.

[47] Oral testimony of USTR Mickey Kantor before the Senate Commerce Committee, June 16, 1994, as transcribed by Federal News Service.

[48] USTR Fact Sheet, *Questions and Answers for State Attorneys General*, July 1994.

[49] Agreement on Sanitary and Phytosanitary Measures, Article 20.

[50] Services of the European Commission, *Report on United States Barriers to Trade and Investment*, 1994, p.55.

[51] USTR Fact Sheet, *Questions and Answers for State Attorneys General*, July 1994.

[52] Agreement on Technical Barriers to Trade, Article 2.4.

[53] Agreement on Sanitary and Phytosanitary Measures, Article 20.

[54] Written testimony of USTR Mickey Kantor before the House Ways and Means Committee June 10, 1994; Written testimony of Rufus Yerxa before the Senate Foreign Relations Committee, June 14, 1994. See also, Memo to Congress, Nancy A. LeaMond, Assistant USTR for Congressional Affairs, July 19, 1994.

[55] Government of Japan, *1994 Report on Unfair Trade Policies by Major Trading Partners*, 1994, p.259.

[56] Services of the European Commission, *Report on the United States Barriers to Trade and Investment*, 1994, p.7 ("[T]he new World Trade Organization will restrain the Contracting Parties from further having to resort to unilateral determinations in trade disputes, "and will oblige them to bring their domestic legislation in conformity with all of the Uruguay Round Agreements." The report then labels United States efforts to renew Super 301 as "contrary to this.").

Mr. HOLLINGS. Mr. President, the comment was made—I cannot keep up with all the comments but right to the point—by my distinguished colleague from Pennsylvania about the reservations and the laws, and we continually hear that, specifically, we do not have a veto. We have the virtual veto now, but under the GATT agreement we lose that veto. And working against our interests we have from bitter experience in the United Nations time and again had to use that veto. Were it not for the veto, there would be no country of Israel. Everyone in this U.S. Congress understands the wonderful emanation here of a nation-state, Israel, in the Mideast never would have occurred had we not had that veto. And a world power like the United States has to act like a world power and use that veto because 90 percent of those in the 117 membership of GATT have voted against us as small countries and have voted against us over 50 percent, the majority of the times.

The best of allies, France and Mexico, have voted against us in the United Nations 79.9 percent of the time.

With respect to textiles, because we heard from the distinguished Senator from Rhode Island, let me just go right to the point. I ask unanimous consent that an article "Japan Moves to Protect Its Textiles" be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Herald Tribune, Nov. 23, 1994]

JAPAN MOVES TO PROTECT ITS TEXTILES

TOKYO.—Japan, flooded with cheap textiles mainly from other Asian nations, is poised to write rules that would let it restrict imports if there were evidence of damage to its domestic industry, government officials said Tuesday.

Japan's textile industry has been seeking import curbs under the Multi-Fiber Arrangement, an international agreement that permits nations to restrict imports if they disrupt their domestic textile industries.

The guidelines, drawn up by the Ministry of International Trade and Industry, will take effect Dec. 5.

Cotton textile imports rose to a high of 804 million square meters (961 million square yards) in 1993, up 21.4 percent from a year earlier.

Ryutaro Hashimoto, the minister of international trade and industry, said the guidelines would help clarify how safeguards for textiles operate. "Talking only about import restrictions is misleading. The guidelines are denying comprehensive and semipermanent restrictions," he said.

Trade ministry officials have said that Japan was sending missions to Pakistan in November and December to investigate dumping charges and probably would come up with a final decision by February.

The Japan Spinners' Association and Japan Cotton and Stable Fiber Weavers' Association have asked for curbs on imports of poplin and broad textiles from China and Indonesia.

Under the guidelines, if the Trade and Industry Ministry felt action was necessary, it would start investigations within two months after a claim was made by the textile industry and conclude them within a year.

If Tokyo decided emergency trade restrictions were needed, a study group would examine each case before a final decision by the minister. Japan would then start talks with the country whose imports were deemed damaging to the domestic industry. If the two sides failed to reach an accord, the ministry would then use emergency trade restrictions.

Mr. HOLLINGS. That is dated here the 23d of this month, just last week. Here in Japan moving where we are moving here not to integrate the textile industry, as the expression was used, but to eliminate it.

Mr. President, I ask unanimous consent that "The Impact of Eliminating the Multi-Fiber Arrangement on the U.S. Economy" by the Wharton Economic Finance Group be printed in the RECORD at this particular point.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

THE IMPACT OF ELIMINATING THE MULTI-FIBER ARRANGEMENT ON THE U.S. ECONOMY

ISOLATING THE TEXTILE AND APPAREL COMPONENTS OF GATT

In manufacturing, the expenditure-induced impacts on durable goods amount to $2.55 billion 1982 dollars or 0.1 percent of the average 1993–2002 baseline output forecast. The change is durable goods output reflects both reduced spending for automobiles, appliances, furniture, and so on, as well as lower investment demand for machinery and equipment to produce these goods as business respond to lower demand for their products. The expenditure-induced impacts on nondurables production is $2.72 billion 1982 dollars, or 0.2 percent of the baseline output forecast.

The impacts accrued in manufacturing have counterparts in other sectors of the economy. A reduction of $.014 billion 1982 dollars is observed in construction, reflecting reduced demand in both the residential and nonresidential sectors, while the impact on the regulated industries will be $0.75 billion.

Likewise, the continual declines in income generated by this process leads to lower wholesale and retail activity. Sales margins are reduced $1.44 billion 1982 dollars in the wholesale and retail trade sector. This represents 0.14 percent of the ten-year average baseline output from 1993–2002.

IMPACT ON MANHOURS

Because the level of employment and manhours in most industries is generally a function of their output, the impact on manhours closely mirrors output effects, unless other inputs have substantially higher costs per unit. These effects are summarized in Table 4B.

In the direct and indirect industries, on average 179 million manhours are lost in the manufacturing sectors due to the proposed new trade policy. The vast majority of these manhours, 172 million hours, are in the nondurables sector. The durable industries are impacted by 6.2 million hours on average.

In the nonmanufacturing sectors, 17 million manhours are lost on average in the regulated industries, or 0.12 percent of the average baseline manhours over the next ten years. In wholesale and retail trade 24 million manhours or 0.05 percent of the baseline average are lost. Finally, in the service sectors 17 million hours, or 0.04 percent, are lost an average due to increases in textile and apparel imports.

The expenditure-induced employment impacts likewise reflect the induced gross output impact. For example, within manufacturing, 68 million hours of work are lost on average due to the assumed trade policy changes. Of these, 32 million hours are lost in durable goods industries, and 68 million hours are lost in nondurable goods industries. Also 14 million manhours are lost on average in the regulated industries. 53 million hours in wholesale and retail trade, and 23 million hours in the narrowly-defined service sector between 1993 and 2002.

IMPACT ON EMPLOYMENT

As might be expected, the employment impact of the new proposed trade policy on the textile and apparel sectors is severe. Table

4.5 shows the direct and indirect impact on employment for all of the two digit SIC industries, and Table 4.6 summarizes the induced impact. The WEFA Group baseline (with MFA) forecasts a job loss of 392.000 in the textile and apparel industries during the 1993–2002 period, based on expected productivity increases as well as the domestic industries' competitive disadvantages.

Under the new proposed policy (GATT) the employment declines will be much more severe. The direct and indirect impact on the textile and apparel industries is estimates to be job loss of 647,000, and the induced effect is an additional 98,000, during 1993–2002.

Under the new proposed policy (GATT) the direct and indirect impact on total establishment employment is estimated at 970,000, including 210,000 jobs lost in the non-manufacturing sectors. The induced impact is estimated to be an additional 420,000 job loss in total, of which 150,000 is in the non-manufacturing sectors.

The WEFA Group employed the Industrial Analysis Service Model to trace and measure the impact of the proposed new trade policy for textile and apparel on industrial output and manhours for the period 1993–2002. This model uses a combination of input/output and statistical techniques to estimate the impact of the new trade assumptions on textile and apparel manufacturers and all related industries.

In input/output analysis, the production of a commodity like apparel starts a chain reaction of transactions through the economy. Demand for apparel prompts its manufacture, and this production in turn generates a need for inputs, such as fabrics, buttons, paper, advertising and trade services. These are referred to as direct industries. These suppliers to the apparel core sectors will in turn need inputs for their own production. For example, in order to meet demand coming from the apparel industry, textile manufacturers will require inputs of cotton, synthetic fibers, electricity, and so on. Likewise, the second-round suppliers to the apparel industry will require inputs for their production processes, with the cycle continuing. The sum of all these transactions are referred to as indirect supplier contributions. In addition, the income earned by employees in these industries, as production and sales transactions occur, will in turn be spent on goods and services, creating additional demand and production requirements throughout the economy. This is the familiar income multiplier concept, referred to as "expenditure-induced" impacts.

IMPACT ON PRODUCTION

Direct requirements by the textile and apparel manufacturers are those inputs purchased by these two industries for the final production of textile and apparel products. These industries demand materials (referred to as intermediate demand) and add value to produce their own products.

An examination of the direct and indirect impact of the proposed trade policy (Table 4A) shows that the linkages of the textile and apparel industries are diverse, with almost every U.S. industry affected to some degree. Due to the concentration of textile and apparel inputs in nondurable goods, the nondurable industries are impacted the most. On average over the next ten years the total impact on these industries amount to $10.64 billion 1982 dollars or 0.34 percent of baseline output. Sectors which are significantly affected are chemicals ($1.64 billion 1982 dollars or 0.8 percent of the baseline), paper ($0.52 billion 1982 dollars or 0.45 percent), and miscellaneous manufacturing ($0.08 billion 1982 dollars 0.25 percent). Agriculture and regulated industries show large impacts in percentage terms from baseline levels despite small dollar figures. The direct and indirect impact to the agriculture sector is $0.3 billion in real terms, or 0.18 percent of the actual on average between 1993–2002. Regulated industries, which consist of electric utilities, transportation services, and telecommunications services, are also affected by the assumed change in trade policy. Around $0.97 billion 1982 dollars or 0.11 percent of the baseline output result from the indirect feedbacks from the assumed changes in trade policy. Around $0.97 billion 1982 dollars or 0.11 percent of the baseline output result from the indirect feedbacks from the assumed changes in trade in the textile and apparel industries.

When the induced spending effects generated by the change in textile and apparel trade are considered, further impacts associated with the proposed new trade policy are implied for U.S. industries. Our methodology allows prices to respond to demand changes, and at the same time income is reduced due to employment loses. These two phenomena have offsetting influences on demand and supply.

Induced impacts reflect lower income for employees in the textile and apparel industries, which in turn cause reduced spending on a wide array of goods and services. New cars, furniture, clothing, food, vacations, housing, and other goods and services are all affected. As can be seen from Table 4A, the expenditure—induced impacts are quite apparent in virtually every industry.

Mr. HOLLINGS. Then, Mr. President, with respect to the industries that the Senator from California said we are going to pick up business in Europe. Not at all. I remember our former colleague and then later Vice President Mondale talking and trying to get domestic content. I tried to include domestic content in the telecommunications bill.

We got a rough letter from Ambassador Kantor that it was GATT illegal. So I read from the exact release in the Journal of Commerce on February 7, 1989, to the European Commission Monday announced tough local content rules covering import of integrated circuits that will force leading Japanese and U.S. chip suppliers to build expensive new plants in the communities to ensure free market access.

Mr. President, the electronics industry has already moved there, so has the IBM downsized as the nice expression for firing 60,000 last year. They have already moved to Europe, and everything else, to get the benefit of the European subsidies and the European protection. GATT does not change that entry provision in there, and go right to the New York Times here in July "U.S. Corporations Expanding Abroad at a Quicker Pace." I ask unanimous consent that this be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD.

[From the New York Times, July 25, 1994]

U.S. CORPORATIONS EXPANDING ABROAD AT A QUICKER PACE

(By Louis Uchitelle)

American companies are once again rapidly expanding their operations abroad—demonstrating that no matter what the incentives for keeping business in the United States, the urge to spread factories, offices, stores and jobs overseas is irresistible.

The surge in these investments and the jobs they create overseas comes just when exports should be climbing more rapidly than investment abroad. A weak dollar and falling labor costs have made American products increasingly competitive. Yet overseas investment is rising at twice the rate of exports. And for each dollar earned from exports, American companies take in nearly $2 from the sale of what they produce abroad.

"If you are going to be really important in the world market, you are going to grow by producing in many countries, and not by exporting, which has its limits," said Robert E. Lipsey, an expert on overseas investment at the National Bureau of Economic Research. "There are circumstances where this might not be the case, but by and large that is the story."

The issue, of course, is jobs, and who will hold them. American companies employ 5.4 million people abroad, 80 percent of them in manufacturing, and the hot issue in the late 1980's, during a similar surge in overseas investment, was this: Why can't the goods and services that these foreign workers produce be supplied from the United States? Why must companies migrate abroad, shedding some of their national identity and loyalty?

Now that debate is likely to revive, although perhaps with less intensity. American investment overseas remains concentrated in manufacturing, particularly in Europe, Canada and Japan, but manufacturing was an area of more rapid growth in the 1980's than it is today. This time companies like Wal-Mart and Morgan Stanley & Company are leaders—and that tones down the job issue.

Opening a factory in Europe or Mexico or East Asia often suggests that one in the United States may be closed. Wal-Mart's new retail investments in Canada, Brazil and Mexico, on the other hand, or Morgan Stanley's eight offices in East Asia do not suggest cutbacks at home.

"What we are sending abroad, apart from money, is our skill and experience as investment bankers, and you really have to be on site to do this sort of thing," said Stephen S. Roach, a senior economist at Morgan Stanley, in a telephone interview from Hong Kong, where he was helping his local colleagues advise the Chinese Government on the privatization of an airline.

Morgan Stanley employs 410 people in Hong Kong, and expects to increase that to 500 by year's end, Mr. Roach said. Most of the firm's Asia offices, including two in China, have opened since the late 1980's.

The new surge in investment, in all types of businesses, showed up in recently released Commerce Department data. This investment by American companies in overseas operations rose last year to $716.2 billion, when measured as the cost of replacing the buildings and equipment. The 7.2 percent increase, coming after two years of much less growth, matched some of the better years of the 1980's. In the first quarter of 1994, investment increased even more quickly.

MANUFACTURING LAGS BEHIND

But while manufacturing still dominates the numbers, representing nearly 40 percent

of the total, manufacturing investment rose by only 7 percent last year. Outlays for retail, finance and the like went up by twice that percentage or more.

"It is our belief that, with trade barriers coming down, the world is going to be one great big marketplace, and he who gets there first does the best," said Donald Shinkel, a spokesman at Wal-Mart, which had no stores overseas in the 1980's.

The investment surge, after two years of relatively little growth, coincides with incipient recoveries in Europe and Japan after periods of recession. As business has picked up, sales and profits have risen at American operations abroad, making more money available for investment. These reinvested profits accounted for more than half the outlays last year, the Commerce Department reports.

Booming economies in East Asia, particularly China, Singapore and Hong Kong, also drew investment, and so did nearly every Western Hemisphere country, with Canada, Mexico, Argentina and Bermuda among the leaders—Bermuda being an offshore haven for American banking and insurance companies, while Canada, Mexico and Argentina attracted mainly manufacturing investment.

But the European nations and Japan attracted the biggest share of the manufacturing investment. They almost always do, although they are industrial countries with stronger currencies and higher average labor costs than in the United States.

American manufacturing companies engage in three types of overseas investment, and the one involving the industrial countries is perhaps the most difficult to justify—given that exporting from the United States can be less expensive, said Raymond Vernon, an economist at the Kennedy School of Government at Harvard University.

Still this investment does not draw the greatest criticism, which has been reserved for companies that relocate labor-intensive operations, like auto assembly, or apparel manufacturing, or the assembly of some electronics products, to low-wage countries like Mexico or Thailand. "The United States is simply not the lowest-cost producer in the world, and moving abroad to these countries is inevitable," Mr. Vernon said.

Then there are the Wal-Marts and Morgan Stanleys trying to penetrate new markets in the only way possible, by putting a store or an investment house on site. Since these companies do not hold back operations at home to expand abroad, their tactics are seldom criticized.

Finally there are the situations in which a company can export its product inexpensively enough, particularly when the dollar is weak, but chooses instead to manufacture abroad, mainly for "insurance," as Mr. Vernon puts it. Of course, foreign companies, particularly the Japanese, adopt the same strategy for the United States, establishing many factories here that create jobs for Americans. But they employ 4.9 million Americans, which is 500,000 fewer than the American corporate payroll abroad.

Jobs are also created in the United States when American companies, investing abroad, export parts or machinery to help make their products overseas. But this "American content" makes up only 9 percent, on average, of the merchandise produced, the Commerce Department says. The rest is obtained overseas.

The Gillette Company embraces the strategy of manufacturing abroad rather than exporting, generating jobs overseas rather than in the United States. That has happened most recently in the case of Gillette's new Sensor XL razor blade cartridge.

The cartridge, simple for consumers to use, is difficult to manufacture, involving 10 welds with high-technology laser machines. Production started nearly two years ago at Gillette's main plant, in Boston, but all the output was exported to Europe. "We introduced the product in Europe because razor blade sales there are greater than in the United States," said Thomas Skelly, a Gillette senior vice president.

The new Sensor model is to be sold in the United States starting this year. But rather than expand the Boston operation to handle the additional production—and add jobs, perhaps—Gillette is adding the extra capacity to its Berlin plant, a high-technology factory that will take over the European market.

CURRENCY ISSUES DISCOUNTED

Cost is not the issue; blades are small and not difficult to ship, and the weak dollar gives the United States an advantage—but one that Mr. Skelly, and other corporate executives, dismiss as insignificant. "In the long run, these currency fluctuations, up and down, don't mean a whit in the decision where to manufacture," he said.

Over the years, Gillette has put 62 factories in 28 countries and each tries to operate as if it were a regional company, adjusting as quickly as possible to local competitors. Being close to a market is a priority, promising better returns than exporting from the United States, Mr. Skelly says.

"We are also concerned about having only one place where a product is made," he said. "There could be an explosion, or labor problems." If the Boston workers struck, for example, Gillette would supply the Sensor XL to Europe and the United States from the Berlin plant, and vice versa.

The upshot of this approach is that Gillette employs 2,300 people in the manufacture of razors and blades in the United States and 7,700—more than three times as many—abroad.

Some of those workers are making blades at Gillette plants in Poland, Russia and China, where production costs are less than in the United States. But that is not the case in Germany. "You could ship the blades from here, but you set up there for insurance," Mr. Vernon said. "And the justifications for this approach are not so clear cut."

Mr. HOLLINGS. It reads:

American companies are once again rapidly expanding their operations abroad—demonstrating that no matter what the incentives for keeping business in the United States, the urge to spread factories, offices, stores and jobs overseas is irresistible.

The entire article, of course, is included. But down at the bottom it says the Gillette Company, a typical example, embraces the strategy of manufacturing abroad rather than exporting, generating jobs overseas rather than in the United States.

The cartridge—talking about the Sensor XL razor blade cartridge—is made at the main plant in Boston. Now if we have to strike we have the exact language in here. We just get it from the overseas plant.

The upshot of this approach is that Gillette employs 2,300 people in the manufacture of razors and blades in the United States and 7,700—more than 3 times as many—abroad.

Some of these workers are making blades at Gillette plants in Poland, Russia, and China . . . But that is not the case in Germany. "You could ship the blades from here, but you set up there for insurance."

But, Mr. President, it uses that expression that if they went and tried to strike that would be gone.

Then, Mr. President, I want everyone to really hear this one because we have the article that appeared in the Washington Post and the Roll Call. Mr. President, I ask unanimous consent that whatever—I know we cannot have the picture of Smoot and Hawley —but whatever account of this ad be printed in the RECORD.

There being no objection, the ad was ordered to be printed in the RECORD, as follows:

REMEMBER THESE FELLAS WHEN YOU VOTE ON GATT

Remember these fellas? Senator Smoot & Congressman Hawley? They're the people who tried to put a wall up around America.

It was 1931. The country faced economic uncertainty. Fear was everywhere.

Congress' reaction? Protectionism. The Smoot-Hawley Act.

The Members of Congress who supported that bill attached their names to one of the most infamous—and destructive—pieces of legislation ever passed by the United States Congress.

Now, it's 1994. The country faces economic uncertainty.

What will Congress do?

With GATT, Congress has an historic opportunity to open foreign markets to American products and services and reject protectionism. A vote for GATT will add billions to the U.S. economy and create new high-paying American jobs.

GATT gives us the largest global tax cut in history, stops foreign countries from cheating on trade and makes over 120 nations play by the same rules we do.

So, when you vote on GATT, keep these two fellas in mind.

And remember: History has not been kind to those in Congress who embrace protectionism.

Mr. HOLLINGS. Mr. President, "Vote America's Future. Vote GATT"

Remember these fellas? Senator Smoot and Congressman Hawley? They are the people who tried to put a wall up around America.

It was 1931. * * *

False. It was 1930. It was in June 1930. The crash occurred in October 29, and in June 1930 Smoot-Hawley was passed after the crash. And the distinguished colleague from Pennsylvania, the late Senator John Heinz, in "The Myth of Smoot-Hawley" contained in the CONGRESSIONAL RECORD of May 9, 1983, and I ask unanimous that this speech by the former Senator John Heinz be printed in the RECORD at this point.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

THE MYTH OF SMOOT-HAWLEY

Mr. HEINZ. Mr. President, every time someone in the administration or the Congress gives a speech about a more aggressive trade policy or the need to confront our trading partners with their subsidies, barriers to imports and other unfair practices, others, often in the academic community or in the

Congress immediately react with speeches on the return of Smoot-Hawley and the dark days of blatant protectionism. "Smoot-Hawley," for those uninitiated in this arcane field, is the Tariff Act of 1930 (Public Law 71–361) which among other things imposed significant increases on a large number of items in the Tariff Schedules. The act has also been, for a number of years, the basis of our countervailing duty law and a number of other provisions relating to unfair trade practices, a fact that tends to be ignored when people talk about the evils of Smoot-Hawley.

A return to Smoot-Hawley, of course, is intended to mean a return to depression, unemployment, poverty, misery, and even war, all of which, apparently were directly caused by this awful piece of legislation. Smoot-Hawley has thus become a code word for protectionism, and in turn a code word for depression and major economic disaster. Those who sometimes wonder at the ability of Congress to change the country's direction through legislation must marvel at the sea change in our economy apparently wrought by this single bill in 1930.

Historians and economists, who usually view these things objectively, realize that the truth is a good deal more complicated, that the causes of the Depression were far deeper, and that the link between high tariffs and economic disaster is much more tenuous than is implied by this simplistic linkage. Now, however, someone has dared to explode this myth publicly through an economic analysis of the actual tariff increases in the act and their effects in the early years of the Depression. The study points out that the increases in question affected only 231 million dollars' worth of products in the second half of 1930, significantly less than 1 percent of world trade; that in 1930–32 duty-free imports into the United States dropped at virtually the same percentage rate as dutiable imports; and that a 13.5 percent drop in GNP in 1930 can hardly be blamed on a single piece of legislation that was not even enacted until midyear.

This, of course, is not to suggest that high tariffs are good or that Smoot-Hawley was a wise piece of legislation. It was not. But it was also clearly not responsible for all the ills of the 1930's that are habitually blamed on it by those who fancy themselves defenders of free trade. While I believe this study does have some policy implications, which I may want to discuss at some future time, one of the most useful things it may do is help us all clean up our rhetoric and reflect a more sophisticated—and accurate—view of economic history.

Mr. President, I ask that the study, by Don Bedell of Bedell Associates, be printed in the RECORD.

The study follows:

BEDELL ASSOCIATES,
Palm Desert, Calif., April 1983.

TARIFFS MISCAST AS VILLAIN IN BEARING BLAME FOR GREAT DEPRESSION—SMOOT/HAWLEY EXONERATED

(By Donald W. Bedell)

SMOOT/HAWLEY, DEPRESSION AND WORLD REVOLUTION

It has recently become fashionable for media reporters, editorial writers here and abroad, economists, Members of Congress, members of foreign governments, UN organizations and a wide variety of scholars to express the conviction that the United States, by the single act of causing the Tariff Act of 1930 to become law (Public Law 361 of the 71st Congress) plunged the world into an economic depression, may well have prolonged it, led to Hitler and World War II.

Smott/Hawley lifted import tariffs into the U.S. for a cross section of products beginning mid-year 1930, or more than 8 months following: the 1929 financial collapse. Many observers are tempted simply to repeat "free trade" economic doctrine by claiming that this relatively insignificant statute contained an inherent trigger mechanism which upset a nearly functioning world trading system based squarely on the theory of comparative economics, and which propelled the world into a cataclysm of unmeasurable proportions.

We believe that sound policy development in international trade must be based solidly on facts as opposed to suspicions, political or national bias, or "off-the-cuff" impressions 50 to 60 years later of how certain events may have occurred.

When pertinent economic, statistical and trade data are carefully examined will they show, on the basis of preponderance of fact, that passage of the Act did in fact trigger or prolong the Great Depression of the Thirties, that it had nothing to do with the Great Depression, or that it represented a minor response of a desperate nation to a giant world-wide economic collapse already underway?

It should be recalled that by the time Smoot/Hawley was passed 6 months had elapsed of 1930 and 8 months had gone by since the economic collapse in October, 1920. Manufacturing plants were already absorbing losses, agriculture surpluses began to accumulate, the specter of homes being foreclosed appeared, and unemployment showed ominous signs of a precipitous rise.

The country was stunned, as was the rest of the world. All nations sought very elusive solutions. Even by 1932, and the Roosevelt election, improvisation and experiment described government response and the technique of the New Deal, in the words of Arthur Schlesinger, Jr. in a New York Times article on April 10, 1983. President Roosevelt himself is quoted in the article as saying in the 1932 campaign. "It is common sense to take a method and try it. If it fails, admit it frankly and try another. But above all try something."

The facts are that, rightly or wrongly, there were no major Roosevelt Administration initiatives regarding foreign trade until well into his Administration; thus clearly suggesting that initiatives in that sector were not thought to be any more important than the Hoover Administration thought them. However, when all the numbers are examined we believe neither President Hoover nor President Roosevelt can be faulted for placing international trade's role in world economy near the end of a long list of sectors of the economy that had caused chaos and suffering and therefore needed major corrective legislation.

How important was international trade to the U.S.? How important was U.S. trade to its partners in the Twenties and Thirties?

In 1919, 86% of U.S. Imports were duty free, or $2.9 Billion of a total of $4.3 Billion. Exports amounted to $5.2 Billion in that year making a total trade number of $9.6 Billion or about 14% of the world's total. See Chart I below.

CHART I.—U.S. GROSS NATIONAL PRODUCT, 1929–33

[Dollar amounts in billions]

	1929	1930	1931	1932	1933
GNP	$103.4	$29.5	$75.3	$56.8	$55.4
U.S. international trade	$9.5	$6.8	$4.5	$2.9	$3.2
U.S. international trade percent of GNP	1.3	7.6	5.9	5.1	[1]5.6

[1] Series U.S. Department of Commerce of the United States, Bureau of Economic Analysis.

Using the numbers in that same Chart I it can be seen that U.S. imports amounted to $4.3 Billion or just slightly above 12% of total world trade. When account is taken of the fact that only 33%, or $1.5 Billion, of U.S. imports was in the Dutiable category, the entire impact of Smoot/Hawley has to be focused on the $1.5 Billion number which is barely 1.5% of U.S. GNP and 4% of world imports.

What was the impact? In dollars Dutiable imports fell by $462 Million, or from $2.5 Billion to $1.0 Billion, during 1930. It's difficult to determine how much of that small number occurred in the second half of 1930 but the probability is that it was less than 50%. In any case, the total impact of Smoot/Hawley in 1930 was limited to a "damage" number of $231 Million; spread over several hundred products and several hundred countries!

A further analysis of imports into the U.S. discloses that all European countries accounted for 30% or $1.3 Billion in 1929 divided as follows: U.K. at $330 Million or 7½%, France at $171 Million or 3.9%, Germany at $255 Million or 5.9%, and some 15 other nations accounting for $578 Million or 13.1% for an average of 1%.

These numbers suggest that U.S. imports were spread broadly over a great array of products and countries, so that any tariff action would by definition have only a quite modest impact in any given year or could be projected to have any important cumulative effect.

This same phenomenon is apparent for Asian countries which accounted for 29% of U.S. imports divided as follows: China at 3.8%, Japan at $432 Million and 9.8%, and with some 20 other countries sharing in 15% or less than 1% on average.

Australia's share was 1.3% and all African countries sold 2.5% of U.S. imports.

Western Hemisphere countries provided some 37% of U.S. imports with Canada at 11.4%, Cuba at 4.7%, Mexico at 2.7%, Brazil at 4.7% and all others accounting for 13.3% or about 1% each.

The conclusion appears inescapable on the basis of these numbers: a potential adverse impact of $231 Million spread over the great array of imported products which were Dutiable in 1929 could not realistically have had any measureable impact on America's trading partners.

Meanwhile, the Gross National Product (GNP) in the United States had dropped an unprecedented 13.5% in 1930 alone, from $103.4 Billion in 1929 to $89 Billion by the end of 1930. It is unrealistic to expect that a shift in U.S. international imports of just 1.6% of U.S. GNP in 1930 for example ($231 Million on $14.4 Billion) could be viewed as establishing a "precedent" for America's trading partners to follow, or represented a "model" to follow.

Even more to the point an impact of just 1.6% could not reasonably be expected to have any measurable effect on the economic health of America's trading partners.

Note should be taken of the claim by those who repeat the Smoot/Hawley "villain" theory that it set off a "chain" reaction around

the world. While there is some evidence that certain of America's trading partners retaliated against the U.S. there can be no reliance placed on the assertion that those same trading partners retaliated against each other by way of showing anger and frustration with the U.S. Self-Interest alone would dictate otherwise, common sense would intercede on the side of avoidance of "shooting oneself in the foot," and the facts disclose that world trade declined by 18% by the end of 1930 while U.S. trade declined by some 10% more or 28%. U.S. foreign trade continued to decline by 10% more through 1931, or 53% versus 43% for worldwide trade, but U.S. share of world trade declined by only 18% from 14% to 11.3% by the end of 1931.

Reference was made earlier to the Duty Free category of U.S. imports. What is especially significant about those import numbers is the fact that they dropped in dollars by an almost identical percentage as did Dutiable goods through 1931 and beyond: Duty Free imports declined by 29% in 1930 versus 27% for Dutiable goods, and by the end of 1931 the numbers were 52% versus 51% respectively.

The only rational explanation for this phenomenon is that Americans were buying less and prices were falling. No basis exists for any claim that Smoot/Hawley had a distinctively devastating effect on imports beyond and separate from the economic impact of the economic collapse in 1929.

Based on the numbers examined so far, Smoot/Hawley is clearly a mis-cast villian. Further, the numbers suggest the clear possibility that when compared to the enormity of the developing international economic crisis Smoot/Hawley had only a minimal impact and international trade was a victim of the Great Depression.

This possibility will become clear when the course of the Gross National Produce (GNP) during 1929–1933 is examined and when price behavior world-wide is reviewed, and when particular Tariff Schedules of Manufacturers outlined in the legislation are analyzed.

Before getting to that point another curious aspect of the "villian" theory is worthy of note. Without careful recollection it is tempting to view a period of our history some 50–60 years ago in terms of our present world. Such a superficial view not only makes no contribution to constructive policy-making. It overlooks several vital considerations which characterized the Twenties and Thirties:

1. The international trading system of the Twenties bears no relation to the interdependent world of the Eighties commercially, industrially and financially in size or complexity.

2. No effective international organization existed, similar to the General Agreement for Tariffs and Trade (GATT) for example for resolution of disputes. There were no trade "leaders" among the world's nations in part because most merchantile nations felt more comfortable without dispute settlement bodies.

3. Except for a few critical products foreign trade was not generally viewed in the "economic-critical" context as currently in the U.S. As indicated earlier either President Hoover nor President Roosevelt viewed foreign trade as crucial to the economy in general or recovery in particular.

4. U.S. foreign trade was reintively as an amorphous phenomenon quite unlike the highly structured system of the Eighties; characterized largely then by "caveat empton" and a broadly laissez-faire philosophy generally unacceptable presently.

These characteristics, together with the fact that 60 percent of U.S. imports were Duty Free in 1929 and beyond, placed overall international trade for Americans in the Twenties and Thirties on a very low level of priority especially against the backdrop of world-wide depression. Americans in the Twenties and Thirties could no more visualize the world of the Eighties than we in the Eighties can legitimately hold them responsible for failure by viewing their world in other than the most pragmatic and realistic way given those circumstances.

For those Americans then, and for us now, the numbers remain the same. On the basis of sheer order of magnitude of the numbers illustrated so far, the "villian" theory often attributed to Smoot/Hawley is an incorrect reading of history and a mis-understanding of the basic and incontrovertible law of cause and effect.

It should also now be recalled that, despite heroic efforts by U.S. policy-makers its GNP continued to slump year-by-year and reached a total of just $55.4 billion in 1933 for a total decline from 1929 levels of 46 percent. The financial collapse of October, 1929 had indeed left its mark.

By 1933 the 1929 collapse had prompted formation in the U.S. of the Reconstruction Finance Corporation, Federal Home Loan Bank Board, brought in a Democrat President with a program to take control of banking, provide credit to property owners and corporations in financial difficulties, relief to farmers, regulation a stimulation of business, new labor laws and social security legislation.[3]

So concerned were American citizens about domestic economic affairs, including the Roosevelt Administration and the Congress, that scant attention was paid to the solitary figure of Secretary of State Cordell Hull. He, alone among the Cabinet, was convinced that international trade had material relevance to lifting the country back from depression. His efforts to liberalize trade in general and to find markets abroad for U.S. products in particular from among representatives of economically stricken Europe, Asia and Latin America were abruptly ended by the President and the 1933 London Economic Conference collapsed without result.

The Secretary did manage to make modest contributions to eventual trade recovery through the Most Favored Nation (MFN) concept. But it would be left for the United States at the end of World War II to undertake an economic and political role of leadership in the world; a role which in the Twenties and Thirties Americans in and out of government felt no need to assume, and did not assume. Evidence that conditions in the trade world would have been better, or even different, had the U.S. attempted some leadership role can not responsibly be assembled. Changing the course of past history has always been less fruitful than applying perceptively history's lessons.

The most frequently used numbers thrown out about Smoot/Hawley's impact by those who believe in the "villain" theory are those which clearly establish that U.S. dollar decline in foreign trade plummeted by 66 percent by the end of 1933 from 1929 levels, $9.6 billion to $3.2 billion annually.

Much is made of the co-incidence that world-wide trade also sank about 66 percent for the period. Chart II summarizes the numbers.

[3] Beard, Charles and Mary, New Basic History of the United States.

CHART II.—UNITED STATES AND WORLD TRADE, 1929–33

[In billions of U.S. dollars]

	1929	1930	1931	1932	1933
United States:					
Exports	5.2	3.8	2.4	1.6	1.7
Imports	4.4	3.0	2.1	1.3	1.5
Worldwide:					
Exports	33.0	*26.5	18.9	12.9	11.7
Imports	35.0	29.1	20.8	14.0	*12.5

*Series U Department of Commerce of the United States, League of Nations, and International Monetary Fund.

The inference is that since Smoot/Hawley was the first "protectionist" legislation of the Twenties, and the end of 1933 saw an equal drop in trade that Smoot/Hawley must have caused it. Even the data already presented suggest the relative irrelevance of the tariff-raising act on a strictly trade numbers basis. When we examine the role of a world-wide price decline in the trade figures for almost every product made or commodity grown the "villain" Smoot/Hawley's impact will not be measurable.

It may be relevant to note here that the world's trading "system" paid as little attention to America's revival of foreign trade beginning in 1934 as it did to American trade policy in the early Thirties. From 1934 through 1939 U.S. foreign trade rose in dollars by 80% compared to world-wide growth of 15%. Imports grew by 68% and exports climbed by a stunning 93%. U.S. GNP by 1939 had developed to $91 Billion, to within 88% of its 1929 level.

Perhaps this suggests that America's trading partners were more vulnerable to an economic collapse and thus much less resilient than was the U.S. In any case the international trade decline beginning as a result of the 1929 economic collapse, and the subsequent return by the U.S. beginning in 1934 appear clearly to have been wholly unrelated to Smoot/Hawley.

As we begin to analyze certain specific Schedules appearing in the Tariff Act of 1930 it should be noted that sharp erosion of prices world-wide caused dollar volumes in trade statistics to drop rather more than unit volume thus emphasizing the decline value. In addition, it must be remembered that as the Great Depression wore on, people simply bought less of everything increasing further price pressure downward. All this wholly apart from Smoot/Hawley.

When considering specific Schedules, No. 5 which includes Sugar, Molasses, and Manufactures Of, maple sugar cane, sirups, adonite, dulcite, galactose, inulin, lactose and sugar candy. Between 1929 and 1933 import volume into the U.S. declined by about 40% in dollars. In price on a world basis producers suffered a stunning 60% drop. Volume of sugar imports declined by only 42% into the U.S. in tons. All these changes lend no credibility to the "villain" theory unless one assumes, erroneously, that the world price of sugar was so delicately balanced that a 28% drop in sugar imports by tons into the U.S. in 1930 destroyed the price structure and that the decline was caused by tariffs and not at least shared by decreased purchases by consumers in the U.S. and around the world.

Schedule 4 describes Wood and Manufactures Of, timber hewn, maple, brier root, cedar from Spain, wood veneer, hubs for wheels, casks, boxes, reed and rattan, toothpicks, porch furniture, blinds and clothespins among a great variety of product categories. Dollar imports into the U.S. slipped by 52% from 1929 to 1933. By applying our own GNP as a reasonable index of prices both at home and overseas, unit volume decreased only 6% since GNP had dropped by 46% in 1933. The

world-wide price decline did not help profitability of wood product makers, but to tie that modest decline in volume to a law affecting only 6½% of U.S. imports in 1929 puts great stress on credibility, in terms of harm done to any one country or group of countries.

Schedule 9. Cotton Manufactures, a decline of 54% in dollars is registered for the period, against a drop of 46% in price as reflected in the GNP number. On the assumption that U.S. GNP constituted a rough comparison to world prices, and the fact that U.S. imports of these products was infinitesimal. Smoot/Hawley was irrelevant. Further, the price of raw cotton in the world plunged 50% from 1929 to 1933. U.S. growers had to suffer the consequences of that low price but the price itself was set by world market prices, and was totally unaffected by any tariff action by the U.S.

Schedual 12 deals with Silk Manufactures, a category which decreased by some 60% in dollars. While the decrease amounted to 14% more than the GNP drop, volume of product remained nearly the same during the period. Assigning responsibility to Smoot/Hawley for this very large decrease in price beginning in 1930 stretches credibility beyond the breaking point.

Several additional examples of price behavior are relevant.

One is Schedule 2 products which include brick and tile. Another is Schedule 3 iron and steel products. One outstanding casualty of the financial collapse in October, 1929 was the Gross Private Investment number. From $16.2 Billion annually in 1939 by 1933 it has fallen by 91% to just $1.4 Billion. No tariff policy, in all candor, could have so devastated an industry as did the economic collapse of 1929. For all intents and purposes construction came to a halt and markets for glass, brick and steel products with it.

Another example of price degradation world-wide completely unrelated to tariff policy is Petroleum products. By 1933 these products had decreased in world price by 82% but Smoot/Hawley had no Petroleum Schedule. The world market place set the price.

Another example of price erosion in world market is contained in the history of exported cotton goods from the United States. Between 1929 and 1933 the volume of exported goods actually increased by 13.5% while the dollar value dropped 48%. This result was wholly unrelated to the tariff policy of any country.

While these examples do not include all Schedules of Smoot/Hawley they clearly suggest that overwhelming economic and financial forces were at work affecting supply and demand and hence on prices of all products and commodities and that these forces simply obscured any measurable impact the Tariff Act of 1930 might possibly have had under conditions of several years earlier.

To assert otherwise puts on those proponents of the Smoot/Hawley "villian" theory a formidable challenge to explain the following questions:

1. What was the nature of the "trigger" mechanism in the Act that set off the alleged domino phenomenon in 1930 that began or prolonged the Great Depression when implementation of the Act did not begin until mid-year?

2. In what ways was the size and nature of U.S. foreign trade in 1929 so significant and critical to the world economy's health that a less than 4% swing in U.S. imports could be termed a crushing and devastating blow?

3. On the basis of what economic theory can the Act be said to have caused the GNP drop of an astounding drop of 13.5% in 1930 when the Act was only passed in mid-1930? Did the entire decline take place in the second half of 1930? Did world-wide trade begin its decline of some $13 Billion only in the second half of 1930?

3. Does the fact that duty free imports into the U.S. dropped in 1930 and 1931 and in 1932 at the same percentage rate as dutiable imports support the view that Smoot/Hawley was the cause of the decline in U.S. imports?

4. Is the fact that world wide trade declined less rapidly than did U.S. foreign trade prove the assertion that American trading partners retaliated against each other as well as against the U.S. because and subsequently held the U.S. accountable for starting an international trade war?

5. Was the international trading system of the Twenties so delicately balanced that a single hastily drawn tariff increase bill affecting just $231 Million of dutiable products in the second half of 1930 began a chain reaction that scuttled the entire system? Percentage-wise $231 Million is but 0.65% of all of 1929 world-wide trade and just half that of world-wide imports:

The preponderance of history and facts of economic life in the international area make an affirmative response by the "villain" proponents an intolerable burden.

It must be said that the U.S. does offer a tempting target for Americans who incessantly cry "mea culpa" over all the world's problems, and for many among our trading partners to explain their problems in terms of perceived American inability to solve those problems.

In the world of the Eighties U.S. has indeed very serious and perhaps grave responsibility to assume leadership in international trade and finance, and in politics as well.

On the record, the United States has met that challenge beginning shortly after World War II.

The U.S. role in structuring the United Nations, the General Agreement on Tariffs and Trade (GATT), the International Monetary Fund, the Bretton Woods and Dumbarton Oaks Conferences on monetary policy, the World Bank and various Regional Development Banks, for example, is a record unparalleled in the history of mankind.

But in the Twenties and Thirties there was no acknowledged leader in international affairs. On the contrary, evidence abounds that most nations preferred the centuries-old patterns of international trade which emphasized pure competition free from interference by any effective international supervisory body such as GATT.

Even in the Eighties examples abound of trading nations succumbing to nationalistic tendencies and ignoring signed trade agreements. Yet the United States continues as the bulwark in trade liberalization proposals within the GATT. It does so not because it could not defend itself against any kind of retaliation in a worst case scenario but because no other nation is strong enough to support them successfully without the United States.

The basic rules of GATT are primarily for all those countries who can't protect themselves in the world of the Eighties and beyond without rule of conduct and discipline.

The attempt to assign responsibility to the U.S. in the Thirties for passing the Smoot/Hawley tariff act and thus set off a chain reaction of international depression and war is on the basis of a preponderance of fact, a serious mis-reading of history, a repeat of the basic concept of cause and effect and a disregard for the principle of proportion of numbers.

It may constitute a fascinating theory for political mischief-making but it is a cruel hoax on all those responsible for developing new and imaginative measures designed to liberalize international trade.

Such constructive development and growth is severely impeded by perpetuating what is no more than a symbolic economic myth.

Nothing is less worthwhile than attempting to re-write history, not learning from it. Nothing is more worthwhile than making careful and perceptive and objective analysis in the hope that it may lead to an improved and liberalized international trading system.

Mr. HOLLINGS. It affected less than 1.5 percent of our GNP. It affects now world trade 18 percent of our GNP and only affected one-third of the trade. The other two-thirds lost just as much rather than unaffected part and then goes on that under our friend Cordell Hull and reciprocal free trade we got into a positive balance in 1933. That is a bum rap this wall where you can ship capital around the world on a satellite technology and a computer clip. That is why they are all moving. They give me that wall argument and Smoot and Hawley. We have heard enough of it. I wanted to make sure we answered these particular arguments and then we reserve our 2 hours for tomorrow. And I thank the distinguished chairman, Senator MOYNIHAN, for his courtesy.

Mr. MOYNIHAN. Yes. Mr. President, we are aware of some pressure of time. The distinguished Senator from South Carolina has the better part of 2 hours remaining and that will be for his disposition tomorrow.

Mr. HOLLINGS. Very good. I thank the Senator.

Mr. MOYNIHAN. The Senator from Alaska has to leave, we know.

The Senator from Washington is next. And I yield 10 minutes to the Senator from Washington. And then I believe the Senator from Wyoming will take whatever time he wants.

I yield to the distinguished Senator from Washington.

Mrs. MURRAY. Thank you.

Mr. President, I rise today in full support of the implementing legislation to the Uruguay round of the GATT.

Two years ago, I first came to our Nation's Capital and to this Capitol Building.

Two years ago, I vowed that I would look at every piece of legislation that came before this body from the perspective of average Americans.

And, I promised I would speak with the voice of common people. People who worry about educating their kids, taking care of their parents, paying their mortgage, and balancing their checkbooks.

Mr. President, from the first vote I cast in the 103d Congress on the Family and Medical Leave Act to this one on the GATT, I have not lost that vision.

That's why I can say this bill is important to average Americans like the members of my family.

Mr. President, this bill is vital because this bill means more secure and well-paying jobs.

The importance of trade is understood by families in my home State from Seattle to Spokane. My friends and neighbors understand that international commerce is the lifeblood of our economy.

Per capita, my home State is America's largest exporter. One in five jobs in Washington is directly linked to trade.

Our State is home to the Nation's largest exporting company—the Boeing Co.

Ours is the State of the Nation's most cutting-edge, innovative industries of the future—software and biotechnology.

Washington State sends the fruits of our labors—our precious apples and pears and wheat—to every corner of the globe.

We in the State of Washington know that expanding trade means more goods jobs. It means more manufacturing jobs. More high-technology jobs. More jobs at our Pacific Coast ports and more jobs in the orchards and farmlands of our Inland Empire.

And, these family-wage jobs provide the economic stability and economic diversity the citizens of the State of Washington have worked so hard to achieve.

I have heard from many people in my trade-dependent state who understand how important this vote is to their lives.

They know the global tax breaks in the GATT will save each American family about $110 per year.

They know if we walk away from this deal which took more than 7 years to negotiate and more than 120 countries to sign, Boeing will have a more difficult time selling airplanes.

That our most innovative companies, like Microsoft and Nintendo, will lose billions of dollars to foreign copyright privates.

That our apples—finally just reaching Japanese shores—will be turned away. And, our wheat will sit in silos.

And, worst of all, if we walk away, we will return to those dark days of the recession with long unemployment lines. And, declining family incomes.

Mr. President, I have heard some of the arguments against this bill. They are based more in misunderstanding of this agreement than they are in solid economic analysis. I know how easy it is to score debating points on issues like this. And, how easy it is to blow things out of proportion, to scare rather than to educate.

I know how this works, because I understand the fear of economic insecurity.

Mr. President, you have heard me say this before. The highest paying job I had before I came here paid $23,000 per year. I am one of those people who has spent years working hard and playing by the rules. And, still being a pink slip away from economic disaster.

I know what all working families want—we want to get out of the system what we put into it.

And, Mr. President, this is exactly what the GATT does. It gives us an fair return for our hard work. It encourages and protects our innovations.

It makes not only our country but all countries work better for average Americans.

It gives our workers a step up against the unfair and high tariffs we have had imposed on us for decades.

It levels the economic playing field, and it makes the world live up to our rules. It opens foreign markets as wide as this great American market is to foreign products.

And, it is a great deal for consumers. It is the largest global tax cut in the history of civilization.

I have heard the arguments against the GATT. I share some of the concerns of the opponents. But, I believe that economic growth and expanded trade can exist and even encourage environmental protection.

I believe we can conclude a trade agreement and work toward improving the quality of life of workers around the world.

I believe that we can pass this agreement and follow the hard work of my good friend, Senator HARKIN, to end the horrendous practices of some of our trading partners in child and slave labor.

I say to these opponents, we cannot influence our trading partners by imposing trade sanctions. We cannot make other countries live up to our standards by ignoring them.

And, I say to my colleagues on the other side of this issue—once again, we have a choice. We can face the challenges of the 21st century and the international marketplace. Or, we can look backward, become isolationist, and turn inward.

History will record what we do here. We are at a crossroads. For the first time in the history of civilization, we have before us an agreement which covers trade in services, a comprehensive agreement on subsidies, trade-related aspects of intellectual property and foreign investments.

This agreement is good for America. It is good for America's future generations.

And it is a good example of what I hope will be a new era in American politics.

I support the compromise President Clinton reached with Senator DOLE last week. They worked together in the best bipartisan way to clear up some misunderstandings about sovereignty. They have illuminated for us the best work of three administrations.

More than 120 countries agreed to a set of rules regarding trade. And, we should, too.

I urge my fellow colleagues to swiftly pass this bill.

I thank the Chair and I yield back my time.

Mr. MOYNIHAN addressed the Chair.

The PRESIDING OFFICER. The Senator from New York.

Mr. MOYNIHAN. May I congratulate the Senator from Washington on her very thoughtful comments.

And might I particularly draw attention to her comment that she is concerned, as are other Senators, about the problems of child labor in the world, and properly so, in the world where population expansion has been so demonic. But we will never be able to engage those countries if we cut off trade with them. She is absolutely right in that regard, and importantly so, and I want to thank her for her remarks.

Mr. President, I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. WALLOP. Mr. President, I yield 10 minutes to the Senator from Alaska.

The PRESIDING OFFICER (Mr. MOYNIHAN). The Senator from Alaska.

Mr. STEVENS. Mr. President, I thank the manager of the bill.

While I support the concept of the General Agreement on Tariffs and Trade, I cannot support the bill that is before the Senate.

I have three basic reasons. I believe that the creation of the World Trade Organization, as contained in the agreement and as would be approved by this bill, infringes upon our sovereignty, not only of our Nation but of our individual States.

Second, I believe that the procedure under which we are considering this bill once again violates the Constitution of the United States. Mr. President, I am compelled to say I think that in the last election the public was telling us that we have a Constitution we should live up to. We raise our hands and say we will support the Constitution. Then we, once again, bring a trade agreement before this body under a procedure which is unconstitutional—the fast track procedure.

The third reason I cannot support this agreement is that it requires a waiver of the Budget Act. I do not believe we should vote to waive the Budget Act in order to approve the General Agreement on Tariffs and Trade. Particularly not with our current Federal budget deficits.

Mr. President, as one who supports the concept of free trade, I find it very difficult, to come before the Senate and oppose the approval of a trade agreement because of the procedures that have been followed. I did that with regard to the North American Free-Trade Agreement last November. During the debate on the NAFTA agreement, I raised on the Senate floor two constitutional points of order, two issues that affect the rights of States

and particularly the rights of small States.

The first issue related to the Senate's constitutional duty under article II, section 2, clause 2 of the Constitution to "advise and consent" to treaties negotiated by the President. Once again, we have here before us now an executive agreement. It is an executive agreement merely because the President designated it as such, notwithstanding the fact that it is clearly one of the items that should have been within the treaty clause of the Constitution. The President does have some discretion to choose the type of instrument he will use, but I do believe he must respect the confines of the instrument he chooses as he puts before the Congress a particular new type of foreign agreement for approval by the Congress.

The Constitution specifically refers to treaties, compacts, and agreements as some of the choices that are available to the President. But there are some parameters, I feel, that should be confining upon any President as he exercises that discretion to choose the type of agreement he will use.

This agreement clearly is a treaty, in my judgment. We had a distinguished representative of Harvard Law School come before the Commerce Committee who set forth why it is that. I regret to say he has recanted his position at the last minute, as he started to count votes because of the circumstance that he does support GATT, but he opposes the process.

I believe that we should stand by the Constitution, rather than just count votes, and the GATT Agreement should be submitted to the Senate as a treaty because of the World Trade Organization concept that is created by it. The WTO concept deals with issues of sovereignty. It deals with the powers of government that particularly affect this country and our system of government. I believe that the GATT Agreement should be submitted to the Senate as a treaty because the World Trade Organization Council and the dispute resolution mechanism diminish the sovereignty of the individual states. I do not understand why we should create a new World Trade Organization that will take part of the sovereignty—diminish the sovereignty of our States and our Nation—through a trade agreement and not a treaty.

The second constitutional issue is one that I raised last November—the fast track procedure which prohibits amendments to the implementing legislation is unconstitutional. The fast track procedure applies to the bill that is before us now. It limits the amount of debate on the bill and prohibits amendments to it. I believe that is unconstitutional. I spelled out to the Senate, last November, this same issue. There is no reason for me to raise it again, because I know I will lose again, because the same people are here who voted on it before. Maybe another Congress at a later date will realize that we ought to start protecting the Constitution.

Members of the Senate have the Constitutional right under article I, section 7 to offer amendments to revenue bills. It says:

> All bills for raising revenue shall originate in the House of Representatives; but the Senate may propose or concur with amendments as on other bills.

GATT is a revenue measure. It originated in the House of Representatives. Yet, I am prohibited now by this procedure from offering amendments to protect my State. And the last time I presented an amendment during the NAFTA debate, the Chair ruled that my amendment was out of order and the Chair's ruling was sustained.

Critics of my amendment point to article 1, section 5, clause 2 of the Constitution which provides that "Each House may determine the Rules of its proceedings", arguing that the Members of the Senate agreed to limit our own rights to offer amendments. I disagree with that argument. The Constitution annotated—published by the Congressional Research Service and sold to the public as an official Government document—says:

> In the exercise of their constitutional power to determine their rules of proceedings, the Houses of Congress may not ignore constitutional restraints or violate fundamental rights, and there should be a reasonable relation between the mode or method to be attained.

In Powell versus McCormick, the Supreme Court held that the qualifications of Members are enumerated in the Constitution and neither House of Congress may impose additional qualifications through its own rules.

When we first contemplated the fast track procedure we believed we were restricting our rights for very narrow purposes. Section 151(b)(1)(C) of the Trade Act of 1974 provides that the implementing bill will only contain provisions "necessary and appropriate" to implement the trade agreement. The implementing legislation we are currently considering contains at least 29 sections that are not essential to implementing the trade agreement. They are only needed to meet the Budget Act and not the trade agreement. The inclusion of nonessential provisions in a trade agreement that is not amendable—even to strike the offending provisions—is an abuse of process. This is the type of abuse of process that led the Senate to adopt the Byrd Rule regarding the consideration of reconciliation bills. The Byrd Rule states that if the budget effect is incidental to the nonbudgetary impact then the provision is nongermane and subject to a motion to strike. I believe that there should be a similar type of rule which would, at the very least, allow Members to strike provisions which are not "necessary and appropriate" to implement the trade agreement.

It is unfortunate, I think, that we can get to the point where, under a fast track procedure, we deny the rights of representatives of small States. And they are the people that are being hurt, Mr. President, by this bill. I mention in particular the double E savings bond provision that is in the revenue portion of this bill.

The bill before us includes not only provisions required to implement the trade agreement but also provisions to comply with the Budget Act. I do not believe that we ever contemplated we would have Budget Act provisions in a bill that came before us under the fast track that we would not be able to amend.

One of these provisions is the double E savings bond provision which is going to penalize people who use deductions from their salaries to buy savings bonds. It raises a very small amount, about $122 million over 5 years, compared to the billions that are required to offset the revenue loss from the tariff reductions in this bill. This provision was put in here—I say this respectfully—by the members of the Finance Committee, and the Ways and Means Committee. A very small portion of the Congress made this provision a part of the GATT deal. And, the people who are going to pay for it are the people who purchase savings bonds, quite often for their retirement or children's education. Many of these individuals purchase the savings bonds through a deduction plan from their paychecks. The $122 million savings that is included in this bill will come about because someone redeeming a savings bond could forfeit up to six months of interest. Currently interest is credited every month, but under this provision the Treasury Department will exercise its administrative discretion to credit interest every six months instead. This is wrong and this provision should be subject to amendment here on the floor.

I believe that denying us the right to offer amendments to deal with these types of revenue provisions clearly violates the Constitution.

There is one other issue I am constrained to mention. I was the author of the spectrum auction concept. For years I argued that the people who were acquiring new licenses for spectrum, through the FCC, should not get them through a lottery, but they should bid for them. The licenses had extreme value.

People laughed at that. The first time that CBO looked at this issue they said that my bill would probably raise about $250 million. It is now in the budget for about $14 billion. And part of the provisions we put in there provided for a pioneer preference provision to give preference to people who

develop new technologies but did not have the financing capability to utilize those technologies because they would be competing against the enormous financial entities of telecommunications industry in this country for those licenses.

As a consequence of the fast track procedure which prohibits amendments, included in this bill is a pioneer preference provision that says, "Oh, by the way, those people have to pay about 85 percent of the average paid by other people in spectrum auctions." Which, Mr. President, was not what was intended at all. Strangely, we have people holding the spectrum under the pioneer preference auctions that are part of the largest financial organizations in the country. They are not small people who developed new technologies that need a boost to get licenses for less than cost or—as a matter of fact, we wanted them to get them free. But under the circumstances of this bill, I find again a revenue provision that is included which I cannot, even as the author of spectrum auction concept, offer an amendment to knock it out of the implementing legislation. The pioneer preference provision should not be in this bill at all.

I have the feeling that those of us from the small States are the ones who are really harmed by this bill.

In addition to these constitutional issues, I have been concerned that the GATT will adversely affect Alaska and 16 other States that use the unitary tax method. If the Uruguay round agreement is adopted, Alaska could be in jeopardy of losing approximately $200 million in revenue annually from its unitary tax on oil producers. The other States that rely on this method of taxation include Arizona, California, Colorado, Connecticut, the District of Columbia, Illinois, Indiana, Iowa, Kansas, Massachusetts, New Hampshire, New Jersey, New York, Ohio, Rhode Island and West Virginia.

The Supreme Court of the United States recently upheld the right of Alaska and other States to use a unitary tax. However, the European Commission has already identified in its 1994 "Report on United States Barriers to Trade and Investment" the unitary tax as an unfair trade practice. In response the Administration negotiated an exception to the General Agreements on Trade in Services which is designed to protect the State's ability to use unitary taxes. In addition, the USTR submitted reservations in Geneva on June 29, 1994. I submitted along with Senator DORGAN a letter to the U.S. Trade Representative on November 14 requesting a report on the status of the reservations. I would like to submit for the RECORD a copy of the response to that letter.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

THE U.S. TRADE REPRESENTATIVE,
EXECUTIVE OFFICE OF THE PRESIDENT,
Washington, DC, November 30, 1994.

Hon. TED STEVENS,
U.S. Senate,
Washington, DC.

DEAR TED: Thank you for your letter of November 14, 1994, regarding the status of the reservation we filed in June exempting state and local tax measures from certain requirements of the General Agreement on Trade in Services (GATS). Specifically, you asked me to let you know the status of negotiations relating to our reservation and whether it will be included in the final agreement.

The reservation will be an integral part of the GATS—the Uruguay Round agreement that governs services trade. The reservation will limit the requirement for our states and localities to provide "national treatment" under their tax and subsidy regimes to services firms from other GATS countries. One effect of the reservation—as well as of an exception written into GATS Article XIV(d)—is to protect state unitary tax regimes, such as Alaska's, from successful challenge under the new World Trade Organization (WTO).

The reservation will go into effect at the same time as the GATS. Its status does not depend on concurrence from other GATS countries.

Since we filed our state and local tax and subsidy reservations, various other GATS members have indicated that they may insist on similar reservations for their own sub-central government units. A number of governments have suggested, alternatively, that the GATS should exclude entirely subcentral government tax measures of the kind covered by our reservation. That would allow all countries to enjoy the kind of protection now provided to U.S. states and localities under our reservation.

Although I cannot say whether the GATS countries will agree to such an exclusion, I can you assure that, either way, the state and local tax and subsidy measures covered by our reservation will be fully protected from challenge under the WTO.

Sincerely,

MICHAEL KANTOR.

Mr. STEVENS. I understand that Senator MURKOWSKI sent a letter to Ambassador Kantor and received a response which assures him that even if Alaska's unitary tax were found to treat foreign service suppliers less favorably than domestic suppliers, it would be protected from challenge by a GATT panel due to the exception and reservations. However, I would like to state for the record that I am not completely convinced that the ongoing discussions with other countries regarding our tax reservations will adequately protect Alaska's right to use the unitary tax method. I do not believe that the letter that has been delivered here by the Trade Representative answers the question, for those of us who want to protect the unitary tax from this GATT and its interpretation by the European Commission following the adoption of this GATT proposal.

Even if the States are protected on this tax issue, there are many other State laws which do not have reservations or have not been excepted from the agreement which will be subject to challenge by WTO. I am concerned that the ability of WTO to challenge State laws will compromise the rights of States to operate as sovereign and independent States. I would like to submit for the record a copy of an article which appeared in "Inside U.S. Trade on December 18, 1992." This article states that in its last days, the Bush administration proposed that the concept of a WTO—then known as the MTO: Multilateral Trade Organization—be dropped from the Uruguay round of GATT. It is my belief that the Bush administration took this action because it saw the need to separate world trade from world government. I agree with that separation. While I generally support free trade, I cannot support this concept of world government.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

U.S. CALLS FOR ELIMINATING PROPOSED MULTILATERAL TRADE ORGANIZATION

The U.S. is seeking to scrap the proposed Multilateral Trade Organization in the Uruguay Round and replace it with a looser organizational structure headed by a trade committee of ministers. The proposals are contained in a paper given to trading partners last week, which elaborates on recent remarks made by a senior trade official that the U.S. does not support the creation of the MTO (*Inside U.S. Trade*, Dec. 11, p 1).

Informed sources said that the U.S. proposed dropping the MTO largely out of fear that the voting procedures could have allowed small countries to dominate the new organization by "interpreting" the agreement in ways harmful to U.S. interests. But some other delegations criticized the U.S., saying that such concerns could easily have been addressed through established negotiating channels, and that the U.S. has not spelled out clearly its problems with the current proposal. They charge that the U.S. has backed away from the MTO as a result of pressure by Congress, and by some environmental and consumer groups who have opposed the proposed organization.

The U.S. proposal, reprinted below, was denounced by a number of countries, including Canada and the European Community, at a Dec. 10 meeting of the heads of the delegations in Geneva, according to informed sources.

Sources in Geneva said that the negotiations on the MTO have come to a halt as a result of the U.S. proposal, and that the issue must be worked out by chief negotiators, and by Arthur Dunkel, director-general of the General Agreement on Tariffs & Trade. Other delegations say they are still waiting for the U.S. to table language detailing the changes it is seeking, but the outline of the proposal lays out generally what the U.S. envisions. The new "post-Uruguay Round system structure" proposed by the U.S. would be directed by a ministerial trade committee, which would meet every two years to oversee the operation of the trade agreements and to provide a forum for negotiating further agreements. A General Council, composed of national representatives, would perform the same functions between meetings.

The U.S. proposal would, however, still require countries to agree to abide by all the provisions of the GATT, as well as the proposed General Agreement on Trade in Services (GATS), the agreement on Trade-Related Intellectual Property (TRIPs), and the

GATT codes on procurement, import licensing, standards, customs valuation and civil aircraft. The Administration insists that the proposal would still achieve the same ends as the MTO without creating a formal organization.

While the structure proposed by the U.S. is similar to that contained in the MTO proposal, the MTO would have been an organization with an independent legal standing, along the liens of the World Bank and the International Monetary Fund. The U.S. proposal would not create such an organization. And sources also said that U.S. proposal currently lacks any definition of the powers and functions of the ministerial committees and the councils, and does not spell out such issues as how votes will take place and how amendments to the agreements will be made.

The proposal would also deal with Administration fears that the U.S. will be dominated by smaller countries under a system of one-country, one-vote decision-making. The U.S. proposal calls for negotiating partners to "reaffirm existing GATT practice with respect to decision-making by consensus. "Informed sources said this would delete two provisions opposed by the U.S.: first, the language in the draft of the proposed MTO that would allow a majority of countries in the Ministerial Conference of the General Council to "interpret the provisions of the agreement"; and secondly the proposal that amendments to the agreements which are adopted by a two-thirds majority would be binding on all MTO members. Under current GATT consensus procedures, countries are only bound by those amendments to which they explicitly consent. But sources critical of the U.S. idea said that the MTO proposal had already incorporated the GATT consensus procedures, and would not represent a significant shift from current practice.

Once source in Geneva said that the U.S. proposal had "hijacked" the process that the Secretariat of the GATT had hoped to initiate to resolve outstanding substantive issues on the MTO and the dispute settlement system. This process of setting up a special working group was intended to deal with a handful of contentious issues that have been unresolved since the so-called Track 3 negotiations on legal drafting were suspended last May. The new working group was supposed to deal with three MTO issues: the amending procedure, waivers from the agreement, and the procedures for non-application of the agreement (Inside U.S. Trade, Dec. 4, p.1).

Sources said that the Track 3 negotiations have come to a halt, and many negotiators are expected to leave Geneva today (Dec. 18).

The MTO was originally proposed formally by Canada and by the European Community in late 1991, and was intended to provide a permanent institutional structure for overseeing the world trading system. The new institution was aimed in part at dealing with the problem of "free riders," by forcing countries to sign onto all the new agreements emerging from the Uruguay Round, as well as the existing codes of the GATT. It was also intended to implement the single integrated dispute settlement system, which would have allowed countries to "cross-retaliate" by taking trade actions in one sector if its interest were impaired by trading partners in another. Both principles are supported by the U.S.

More than 300 environmental and consumer groups from around the world spoke out against the proposed MTO last week, and a Nov. 17 statement by groups from 30 countries called for scrapping the MTO. The statement charges that the MTO would "override national policies and possibly other international agreements," and would contribute to environmental degradation (see related story). In addition, the National Wildlife Federation said that the Administration should remove the MTO from the draft Uruguay Round agreement and put on the same timetable as negotiations to reform the provisions of the GATT (see separate story).

One informed source in Geneva, however, said that the U.S. proposal could actually weaken the provisions on the environment. While it has been generally accepted that a trade and environment committee will be created within the MTO, the source said that the EC and Canada had both favored including language on the importance of environmental protection and sustainable development in the body of the MTO test itself. The U.S. proposal, however, would restrict this environmental paragraph to a non-binding preamble to the proposed ministerial decision, the source said.

U.S. PROPOSAL ON MTO—MINISTERIAL DECISION OUTLINE

Define scope of multilateral trading system under one umbrella: the four annexes to latest draft MTO agreement.

Agree to convene ministerial meetings every two years to oversee the operation of these agreements, further their objectives and provide a forum for negotiation of further trade agreements.

Establish council of representatives to perform these functions in the intervals between ministerial meetings.

Establish 3 subsidiary councils; Goods, Services, TRIPs.

Establish Dispute Settlement Body to administer the integrated dispute settlement procedures in Annex 2 and a TFRM in accordance with Annex 3.

Establish standing subsidiary bodies of the general council: Balance-of-Payments Committee, Budget and Finance Committee, Committee on Trade and Development. Committee on Trade and Environment.

Designate Secretariat to support all the agreements in the four annexes.

Reaffirm existing GATT practice with respect to budget and contributions.

Reaffirm existing GATT practice with respect to decision-making by consensus.

Provide that by adopting this Decision, Ministers agree to submit, as appropriate, the annexed instruments for approval and implementation in accordance with relevant domestic procedures.

Adopt test of protocol to be accepted upon domestic approval.

Mr. STEVENS. My third reason for opposing the GATT is because it would bust the Federal budget. The Congressional Budget Office recently estimated that the agreement would contribute to the Federal budget deficit $1.6 billion in the first 5 years and up to an additional $16.5 over the next 5 years. With a Federal debt of $4.6 trillion and $202 billion budget deficit this year, I cannot in good conscience support this agreement.

I say, in sheer frustration, that I do not know where this Congress is going. Why can't we live up to the Constitution? Why can't we read the Constitution again, and proceed according to the Constitution?

Again I state my good friend in the Chair will recall the discussion we had during the debate on NAFTA. I am still waiting for the hearing, from the Finance Committee, to give us a chance to determine the future of fast track concepts. I for one will oppose fast tracks as long as I am in the Senate, until we get an understanding of how we are going to protect the Constitution as we consider bills under the fast track procedure.

I thank my good friend for his courtesy.

The PRESIDING OFFICER. The time has expired.

The Senator from Wyoming.

Mr. WALLOP. Mr. President, I yield myself 10 minutes.

The PRESIDING OFFICER. The Senator from Wyoming is recognized for 10 minutes.

Mr. WALLOP. Mr. President, free trade means the freedom of private parties to make choices about how to order their lives and how to spend the money they earn. Restricting trade burdens the exercise of this liberty. When governments restrict the freedoms of individuals to make such choices, they are regulating the disposition of private property. Whatever the arguably beneficial effects of trade laws, this is their actual function: government interference in private transactions.

Free trade agreements, therefore, should get governments out of the way of private choices, businesses, and transactions. Free trade agreements should deregulate international trade, give bureaucrats less control over how, where, and when exporters and importers can do business with consumers in foreign nations, and streamline our outdated and largely protectionist trade laws. Regulations are as harmful to international trade as they are to the domestic economy, and in both cases, they must be scaled back to stimulate private economic activity and allow private parties to enjoy the fruits of their labor and investments. Free trade agreements should encourage other nations to scale back informal or formal government controls over private economic activity.

I believe in free trade. I don't think any Member could argue with my record of support for free trade. Thus, despite its flaws, GATT reduces tariffs, the most obvious barriers to free trade, and institutes a standard set of rules for international trade which should permanently alter the entrenched protectionist policies of many foreign countries.

But what we are voting on today is not simply whether to make trade freer through the GATT. We are not voting on the GATT agreement signed in Morocco in April. We are voting on the implementing legislation which the administration and the staffs of the Finance and Ways and Means Committees drafted to integrate the substance of the GATT Agreements into current

U.S. trade law. Not only does the implementing legislation not integrate the GATT faithfully, it became an excuse to strengthen the protectionist biases in current U.S. law.

Let me give a few examples, examples of a few of the items which I hope the next Congress will examine closely and strip from U.S. law. First, according to the plain language of the GATT, there must be a fair comparison between the prices of foreign goods imported into the United States, and the prices of those goods in the exporting country. The current legislation perverts this language to allow average prices in the foreign market to be compared with individual transaction prices in the United States. The relevant provision effectively requires every sale of a foreign good in the United States to turn a profit or face duties over and above any tariffs already imposed. This is economic nonsense.

Second, a related provision allows a deduction of profits from the U.S. price when comparing those prices to prices in foreign markets. In other words, the more competitive imports are, the more certain it is that the ever vigilant Department of Commerce will find that they are dumped. Again, this is economic nonsense, and exalts the narrow interests of protected U.S. industries above the broad interests of the American consumer. Both of these provisions were unnecessary. We are now forced to vote on barely decipherable legalese which either obscures or contravenes what we negotiated with over 100 other nations.

Third, as part of the expansion of the definition of subsidy in the implementing legislation, there is a provision which states that, if a formerly government-controlled foreign company is privatized, its goods will still be subject to U.S. countervailing duties, again over and above duties which may already exist. This is a terrible incentive to provide to the emerging market economies of the world. What sort of message are we sending? In the context of a free trade agreement, the U.S. Congress tells nations transforming from centrally planned economies to private sector driven economies that their exports can never escape the effects of prior subsidies in the eyes of U.S. laws. This is both bad economics and bad foreign policy. Such a provision is especially ridiculous because GATT itself creates categories of subsidies immune from countervailing duties. Percentages of research and development, environmental compliance, and aid to "disadvantaged regions," whatever that means, are by the GATT language OK to subsidize. Mr. President, we as a nation cannot afford to subsidize industries whether such subsidies are GATT legal or not. I know that Senator DANFORTH and I agree that legitimizing subsidies on a national scale amounts to sanctioning a national industrial policy, which is and has always been a bad idea. The Government cannot pick winners; it only makes losers out of potential winners by transferring the money of working Americans to inefficient industries. American business and the American people want Government out of the way and out of their pockets. We cannot use a free trade agreement built on similar principles to defraud taxpayers. I can only hope that the administration will heed the language and intent of the amendments which Senator DANFORTH and I offered to address these concerns.

Closing this point, let me make one thing clear. Earlier this month, Secretary of Labor Robert Reich decried tax credits for corporations as "corporate welfare." Secretary Reich, wake up. Subsidies are corporate welfare. Antidumping laws which penalize efficient, competitive foreign products are corporate welfare for domestic industries. Tax credits, which mean that the Federal Government takes away less of the money which a business has earned, are not welfare. The money which a business and its employees have earned is theirs, Mr. Reich, not the Government's to bestow upon them.

To further demonstrate that the implementing legislation is contrary to the language and spirit of the GATT, I want to point out provisions which were not included in this legislation. The administration fought tooth and nail during the committee markup to defeat an amendment which would simply have granted U.S. importers of specialized foreign products temporary exemptions from antidumping and countervailing duties in cases where no domestic supply exists. Clearly, if no one in the United States makes a given product, no one would be inconvenienced by the import of that product without duties, which can average over 50 percent of the value of the good. Why should an American consumer or an American industry which needs such a product pay such duties? What or who is being protected by such a blind application of the trade laws? There are no benefits. Yet the Department of Commerce and the International Trade Commission saw the amendment which would have addressed this illogical situation as a threat to their imprudent stewardship of the restrictive trade laws. Industries protected from foreign competition by Commerce's favoritism in the application of antidumping laws also felt threatened by the amendment, and helped to defeat the amendment during the committee markups. These industries argued that the amendment would destroy incentives for domestic industries to produce the desired products. Again, bad economics. If sufficient incentives existed for domestic industries to produce the product, they would already be doing so. Because such incentives do not exist, American consumers who need the product must import it, and under current law, they are penalized for doing so. Protected industries were not swayed by the language in the amendment which gave domestic industries first crack at producing any desired product before any remission of duties took place. They and their allies in the administration simply rejected out of hand any language which suggested that American consumers ought not to be penalized for importing specific goods, in small quantities, when there is no domestic production.

The administration would have us believe that they are committed to free trade. I for one am not surprised that their actions diverge so clearly from their rhetoric when less government management of trade is advocated. And the amendment to which I just spoke was but one example. The Caribbean Interim Trade Program, originally proposed for inclusion in the GATT, would have expanded the now $22 billion United States-Caribbean trading relationship. It would have accelerated these nations' accession to GATT, necessitated protection of intellectual property rights, and stimulated bilateral investment treaties. The United States, including my own State of Wyoming, has run a trade surplus with the Caribbean Basin for 8 years. Yet it too, was left out of this implementing legislation due to lukewarm support from the administration and the same advocates of protectionism who were responsible for the other anti-GATT inclusions and omissions about which I have spoken.

On the whole, the implementing legislation reflects bad policy turned into bad law by bad leadership from the administration. If any Senator votes against this agreement, the reasons I have detailed above would amply support his or her decision.

But as every Senator knows, we are rarely asked to vote on perfect legislation. Far from perfect, this remains a historic vote. As my last vote in the Senate, I judge this legislation against the one thing that has underscored every vote I have cast in this body—liberty. The biggest reason to support GATT is to expand individual liberty. When governments regulate and restrict the way that millions of private citizens choose to do business and with whom they do business, they are restricting freedom, restricting liberty. Restrictions in the name of protection are without merit; government cannot protect citizens from the risks of free commerce without denying them the rewards. But when governments reduce barriers to trade, they increase the ability of each and every consumer to make choices. Thus my vote for GATT, despite the many problems in this implementing legislation, is simply that

a vote for the ability of peoples around the world to engage in commerce more freely, with greater liberty.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Chair notes that this will be the last vote that the Senator from Wyoming will cast, and if anyone could characterize a career as having been devoted to liberty, none would be more exemplary than his.

Does the Senator from North Dakota seek recognition?

Mr. CONRAD. Mr. President, I do seek recognition, and I would grant myself such time as I might consume.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CONRAD. I thank the Chair.

Mr. President, I will vote for GATT. I will vote for it because I believe it is in the best interest of the State of North Dakota and of our Nation. The reason is simple: The United States has the most open market in the world, and this agreement will force other countries to open their markets to us. The United States is the largest exporting nation in the world, and the agreement will provide the largest tax cut on our goods in world history. The $740 billion in tariff cuts will mean $700 billion in cuts by other countries while we reduce our own tariffs by only $40 billion. Clearly, that is in our interest.

The United States is the most competitive nation in the world, according to a recent analysis by the World Economic Forum. Opening other countries' markets to us will allow us to sell them more and create additional jobs for us. Clearly, that is in our interest.

North Dakota exports much of what we produce. This agreement will provide new opportunities for sales of our agricultural products, including wheat, cattle and hogs. Projections from the respected Food and Agricultural Policy Research Institute indicate that by the year 2001, the average North Dakota wheat farmer will realize $3,300 a year in increased income as a result of this trade pact. But the agreement does not just benefit agriculture. It will increase our sales of farm machinery, computer software and many other products we produce. Clearly, that is in our interest.

Mr. President, as you know, I have opposed trade agreements in the past, such as the Canadian Free Trade Agreement and the North American Free Trade Agreement. I opposed them because I did not think they were in North Dakota's interest. But I believe this agreement is dramatically different. Those agreements contained provisions that stacked the deck against our producers. This agreement starts to level the playing field. It is certainly true that other countries have played us for suckers on trade in the past. They have taken advantage of our relatively open markets while keeping their markets closed to us. This agreement starts to open their markets and make them play by the same rules that we have followed for years.

These changes are projected to add $100 to $200 billion each year to our economy when fully implemented. That translates into an extra $1,200 a year for every American worker.

According to the U.S. Treasury Department, it means $60 billion in deficit reduction over the next 10 years, without a tax increase. For those concerned with the loss of jobs, I believe this agreement will produce many more and better jobs than those we might lose as a result of this pact.

The U.S. Treasury Department projects that the agreement will result in a net increase of 500,000 jobs in the next 10 years. Mr. President, that is nearly as many people as reside in the State that I represent.

For those concerned with our sovereignty, I share their concerns. I do not think we should erode our sovereignty, and I would not support this agreement if I thought it would. After examining this issue closely, I do not think the agreement will interfere with our sovereign rights as a nation. But if the World Trade Organization proves to infringe on our sovereignty, we have the clear right to withdraw at any time on 6 months' notice. Further, every 5 years, we can vote in the Congress on whether or not to continue in the World Trade Organization. This vote cannot be filibustered. It will be a straight up-or-down vote on withdrawing.

We would be less than frank if we did not admit that this agreement is far from perfect. It will not solve all of our trade problems. We recognize that. Japan's unfair trade practices are only partially addressed. They will remain a serious problem that we must address in negotiations between the two countries. China, which remains outside of the General Agreement on Tariffs and Trade, will no doubt continue its unfair trade practices. We will have to aggressively address its trade abuses as China seeks to re-enter the GATT and join the World Trade Organization.

Finally, this GATT agreement does not address the major problem of unfair competition from countries that use child labor, pay their workers abysmal wages or force them to work under terrible conditions. This is a serious failing of the agreement. American workers should not be expected to compete with foreign workers who are not accorded fair working conditions.

But rejecting the GATT agreement will do nothing to change these circumstances. They exist today. Rejecting the GATT agreement will only retard economic progress in developing countries and slow progress on these issues.

Whatever the outcome of this debate, we must aggressively pursue a commitment from all of our trading partners to raise labor standards and wages if they expect continued access to our markets.

Although this agreement does not solve all our problems, it moves the 123 nations that are signatories in the right direction. It deserves our support.

The fact is that the world is changing. We must choose whether we attempt to cling to the past or bend the future to our best interests. I believe it is hopeless to try to prevent the changes that are already occurring in every corner of the world. Instead we must seek to make those changes work for us.

This GATT does that. I will support it.

I thank my colleague. I especially thank our chairman and the Presiding Officer for his courtesy.

I yield the floor.

The PRESIDING OFFICER. I thank the Senator.

Who yields time?

Mr. WALLOP. Mr. President, I yield myself but 1 minute.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. WALLOP. Mr. President, I feel very strongly as well about the Budget Act, though I will support GATT. As I told the chairman when we were in committee, those of us who have voted against waiving it over the course of time could scarcely be expected to waive it now without being accused of either falsely supporting it or politically supporting it in the past. I regret to say that. But once that hurdle is cleared, I will be happy to add my support to the treaty.

Mr. President, I suggest the absence of a quorum with the time being equally divided.

The PRESIDING OFFICER (Mr. CONRAD). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. WALLOP. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WALLOP. Mr. President, I yield to the Senator from Alabama 15 minutes.

The PRESIDING OFFICER. The Senator from Alabama is recognized for 15 minutes.

Mr. SHELBY. Mr. President, I rise today not to reject free and fair trade, but to oppose the unwise ceding of our national sovereignty, irresponsible budgeting, and backdoor legislative tactics. Mr. President, if the Senate fails to pass the pending legislation implementing the Uruguay round of the General Agreement on Tariffs and Trade, this body will not be rejecting the principles of free trade. Neither I nor the vast majority of my colleagues and constituents believe that American businesses and their employees cannot

compete with any foreign enterprise on a level international trading field.

Few would argue that eliminating international trade barriers to our products and services is not a healthy and productive endeavor. It is. I am convinced that if the current enabling legislation contained nothing more than measures adjusting certain tariff duties and was adequately financed that there would be little concern on the part of most Americans to this agreement.

However, a cloud of mistrust, suspicion, and outright hostility on the part of many ordinary Americans has surrounded this legislation since its delivery from the White House to Congress.

This tension and exasperation is only heightened by the fact that a largely repudiated Congress is considering the measure only weeks after an historic election in a lameduck session.

Having reviewed the voluminous document to which this legislation would bind this Nation and the implementing legislation itself, I can draw no conclusion other than that this Congress and our trade negotiators should go back to the drawing board and create a trade agreement instead of a document promoting world government and fiscal irresponsibility.

The legislation before the Senate is hastily crafted, largely unstudied, and unpredictable in its effects.

Mr. President, each Member of this body is sworn to uphold and defend the Constitution of this great Nation. As such, our highest obligation is to preserve the sovereignty of this country and the powers of its elected bodies to write the laws that govern our people.

Yet, this document, before the Senate tonight would require the United States to join a World Trade Organization that would have the power to order the Federal, State and local governments to alter laws relating to trade, labor, industrial or any other policy that a panel of three international bureaucrats meeting in secret might find offensive to their interpretation of the GATT agreement.

Decisions by such dispute panels can only be overturned by unanimous vote of the GATT membership—a membership that will be composed not of the major industrialized nations of the world but of countries that simply agree to move toward more open markets. Think about it.

Given the U.S. track record in the General Assembly of the United Nations, it is far from assured and less than encouraging that trade disputes will be adjudicated in our favor.

Should WTO dispute panels rule against the U.S. when its domestic laws are challenged, we will be subject to international sanctions if we choose not to comply by altering our laws to fit the WTO's wishes.

The thought of an underdeveloped and undemocratic nation passing judgment on the laws of the largest free market and most democratic nation in the world is simply offensive to most Americans.

Yet, the White House's trade negotiators can give us no reassurance that the worst case scenario involving membership in the WTO will not come to pass.

When it is pointed out to trade negotiators that WTO membership requires a member "to ensure the conformity of its laws, regulations, and administrative procedures with its obligations as provided in the annexed agreements," and that the WTO will interpret and enforce this conformity they respond not with concrete assurances. Instead, trade negotiators express wishful thinking that it just will not happen. A hope and a prayer is simply not sufficient grounding for a decision that could affect the sovereignty of our governing institutions.

In addition, Mr. President, the American people most assuredly voted on November 8 for fiscal responsibility and I believe restraint.

Yet, only 3 weeks after that historic election, approval of this document mandates that we vote to waive the requirements of our budget law and add another $15 billion to our national debt over the next 10 years.

In the haste to pass this legislation, the administration has failed to provide over half of the funding to pay for lost tariff revenues. In addition, one of the few revenue raisers in this bill would finance GATT on the backs of the elderly and the working Americans by reducing the rate of return on ordinary savings bonds. Just think about it.

This legislation does not pass the straight-face test. We cannot seriously, I believe, talk about fiscal responsibility in the weeks leading up to the last election, and within a month vote to pass another budget-straining piece of legislation and still wonder why voters are cynical and mistrustful of this Congress.

Finally, as it has repeatedly in the past 2 years, the administration has inevitably succumbed to the temptation to load a large piece of legislation up with prizes and cutouts for some of its friends. For example, some of the worst among these cutouts is section 801 of title 8 of the bill that would give, some people think, between $1 billion and $2 billion in Federal fee relief to the Washington Post and to the Atlanta Constitution for exclusive and lucrative telecommunications licenses.

Mr. President, I have no idea, and I challenge my colleagues to explain to me what this provision has to do with international trade. Given that this legislation could cede our national sovereignty to an international body, that it busts the budget and contains extraneous materials, we should hardly be surprised that so many Americans are so passionately against this agreement.

Mr. President, proponents will argue that this debate should be about free trade. Indeed, I agree that it should be. And if it were, I could easily support the agreement. But, Mr. President, there are more important issues at stake in this debate than the lowering of trade barriers. This agreement has become a post-Thanksgiving turkey to be swallowed by a lameduck Congress.

There is simply too great an atmosphere of distrust and confusion in the minds of the American people and too little knowledge on the part of the Congress to pass this legislation.

I believe that we should come back next year with new legislation that guarantees our continued sovereignty, pays for this agreement, and is free of extraneous material. I ask my colleagues to vote no on this agreement at this time.

I yield the floor.

Mr. MOYNIHAN. Mr. President, I am happy to yield 15 minutes to the distinguished Senator from New Jersey, who returns in welcomed triumph to this Chamber.

Mr. LAUTENBERG. I thank the distinguished chairman of the Finance Committee.

Mr. President, I take this opportunity to present my views on the GATT agreement, the General Agreement on Tariffs and Trade currently before the Senate. It is a culmination of more than 50 years of developing international trade relationships and practices. It has been the subject of specific negotiations for almost a decade. We will soon decide whether the United States will support this document which our Government has been instrumental in developing.

I have approached my decision on GATT by asking questions about our future, about the direction our economy is taking, about the best way to improve our prospects, and the best way to provide opportunities for the workers, the families, and the children in my State.

As the Presiding Officer knows, I come from the business community in New Jersey. My corporate experience led me to deal with corporations of all types, all different businesses, and I got to know the industrial makeup of our State. It pains me, Mr. President, to see the decline in various parts of the manufacturing sector in our State and throughout this country.

Therefore, after much review, a lot of questions, a lot of time spent in dealing with staff and with people from the trade office, I have decided that supporting GATT is the best way to build a better economic future for the people of New Jersey and for our Nation.

Historically, America offered those who were willing to work a real opportunity to get ahead. Low-skilled workers could make a week's pay. They found a way to care for their families. They could help their children get an

education and move up the economic ladder and get a piece of the American dream.

But in the last few decades, we have seen declines in American industrial employment. Manufacturing jobs at decent wages are harder to find. Too many industries are fading away. Too many firms are shrinking. The people who used to start in manufacturing plants now end up in the low-wage service jobs, without fringe benefits, without job security, without health insurance, and without a secure future.

These developments have been difficult for our country. They have created unprecedented anxiety even as we pull out of a recession, unemployment is going down, and the economy is growing. But still, too many American workers fear that they will never have the kind of income and job security they need to fully participate in the American dream. These economic trends result from many factors, and I would like to identify just three.

First, new technologies have made our economy more competitive and productive; but they have also allowed companies to reduce their work force even as their profits grow.

Second, as developing nations move to share free markets, we face a new challenge. We have to compete with companies who pay their workers a 10th, or a 20th, or even a smaller fraction of American wages. And those companies operate with little regard to the health and safety of their workers or the well-being of the environment.

Third, our own economic development in the international marketplace has in some ways pitted sectors of our economy against one another. Whenever we try to protect less competitive economic sectors, other nations retaliate against our new and growing industries seeking niches in their marketplace.

GATT or no GATT, our society must face and deal with these difficult decisions. America's future depends on a highly skilled work force, top-notch job training, and technological innovation. I do not want to see a single job lost in this country, especially not to competition from workers in low-wage, exploitive economies. But with or without GATT, we do face that competition. There is no way to ignore it. So what we have to do is respond to it.

GATT, though not perfect, is a reasonable response. It will increase economic growth, create new jobs, and provide our workers and their children with the opportunities they deserve. Today, as we prepare to vote on this historic agreement, I have tried to look into the future a little and make a decision that will contribute to the most stable, prosperous society that we can have. I believe that approval of GATT will provide us with that opportunity.

This legislation amounts to the largest single tax cut in the history of the world. As tariffs decline, so should prices, and all consumers, Americans and others, will benefit.

GATT provides the kind of intellectual property protection that we need to compete in the global economy. More markets will be open to our products, and fewer of our ideas will be pirated or counterfeited. GATT goes a long way toward securing our economic future and addressing our concerns. It establishes a level playing field in those areas where our economy is growing—pharmaceuticals, communications, and other high-tech industries. And in sectors that will suffer, like textiles, it attempts to cushion the blow by phasing in the new rules and giving people time to adjust to them.

The benefits of GATT will spur growth in American industry, both large and small.

In my State of New Jersey, exports have increased 90 percent since 1987. There are 6,900 companies in New Jersey that sell their products outside the United States. Of these companies, 6,100 of them, 6,100 out of 6,900, have fewer than 100 employees. Unlike the giant firms that continue to downsize, these are the firms that led New Jersey's economic recovery. These are the firms that will continue to increase employment if they can increase sales. And GATT encourages them to do just that.

Real economic growth, the kind that creates jobs as well as profits, requires us to support the small companies that have always been the bread and butter of American business.

The Treasury Department estimates that GATT will create 18,000 new jobs in New Jersey alone, many of them in small high-tech companies. These are good, well-paying jobs, the kind that let people enter or remain in the middle class and build a future rather than being forced to work harder for less money.

Throughout this debate, I have been particularly concerned with the issues of job loss, child labor, and sovereignty. I had a lengthy conversation this morning with U.S. Trade Representative Mickey Kantor, and we discussed these concerns.

Obviously, we can find flaws in the agreement in these areas. And even after my discussion with Ambassador Kantor, I am concerned about our ability to prohibit abuses of child labor. But I do recognize that this is an issue that we can continue to pursue. GATT is not the last word on trade issues. We will continue to fight child labor and other human rights abuses.

While GATT does not solve the problem, it does not prevent us from solving it. We have other ways to make our case and protect our laws, including GSP renewal and section 301, and I intend to pursue our goals in this manner. In addition to these trade-related remedies, we can also use our military and foreign aid programs to deter practices that we oppose.

Mr. President, I recognize that many fear that GATT will undermine U.S. sovereignty. If I believed that was the case, I would not support it. Nor would four former Presidents. Nor would a majority of Members of the House of Representatives.

Specific concerns about our rights under GATT have been addressed in the implementing legislation. We have reaffirmed the simple fact that no rule in GATT, no decision by the WTO, will require that the United States to modify any of our domestic laws. And even Senator DOLE, the current Republican leader, who was so skeptical about this point, has been reassured by the administration's commitment to support future legislation that will allow us to withdraw from the agreement if WTO decisions are arbitrary.

Mr. President, with or without GATT, we have an obligation to retrain displaced workers. We have a moral responsibility to them. And we must work in a bipartisan way to ensure that they are not forgotten.

I believe that if we work together and work hard we can compete successfully in the global economy. I think this agreement will allow us to do so more effectively. I have faith in the American worker and American industry. And I am confident that with a level playing field we can create an export surplus, improve our economy and build a more prosperous America for future generations.

My distinguished colleague, Senator BRADLEY, who has had long experience as a Member of the Finance Committee and working with trade issues, came to a conclusion after a deep review of what benefits there might be and what kind of problems would follow. He came to a very thoughtful conclusion that he is going to support GATT.

I am pleased that he and I view this the same way, that this is the better way to support America's opportunities in the future, and I am happy to register my support for it.

With that, Mr. President, I yield the floor.

The PRESIDING OFFICER (Mr. KERREY). Who yields time?

Mr. MOYNIHAN. Mr. President, may I just for a moment thank the Senator from New Jersey for his statement and emphasize his observation. This is a historic decision. The Senate will not make a more important vote in this decade and his statement is very important in seeing to its success.

Mr. President, I yield the floor. I see the Senator from Iowa I believe is managing time on the other side.

The PRESIDING OFFICER. The Senator from Iowa is recognized.

Mr. GRASSLEY. Mr. President, I will yield what time I might consume to the Senator from Indiana.

The PRESIDING OFFICER. The Senator from Indiana is recognized.

Mr. COATS. Mr. President, I rise this evening to speak in favor of the General Agreement on Tariffs and Trade. I have concluded that this agreement will not only benefit our Nation's economy, it will also benefit the world's economy, and in particular, it will benefit the economy of my home State of Indiana.

The State of Indiana is consistently ranked among the top exporting States in the Nation. We continue to lead the country in the production of steel. We are one of the Nation's premier agricultural States. We are in the top five auto manufacturing States. And Indiana has been a leader of pharmaceutical and medical devices manufacture, all products that will significantly benefit from expanded world trade.

I will speak in a moment about the larger benefits of GATT to the American economy and why I believe this historic free trade agreement is a step, and an important step, that our country should take.

But first let me speak specifically about how the GATT will affect the State of Indiana.

I want to be very specific about why I believe this agreement is good for the State of Indiana. Productive workers, making products and providing services that are in demand around the world, need expanding markets or they simply will lose their jobs. It is that simple and that important.

Free, fair, and open trade is crucial to Indiana because exports are the lifeblood of Indiana's economy. One of every six Hoosier manufacturing jobs is due to exports. Were those products not exported around the world, one of six Hoosiers would be out of work.

One-third of our farm production travels overseas. One- third of our acreage would be idle and one-third of our agricultural workers would be out of a job were those agricultural products not shipped overseas.

Over 155,000 Hoosiers owe their jobs directly to the export of manufactured goods. We have seen in the State of Indiana a 126-percent increase in merchandise exports just since 1987. We ranked 14th overall in the value of export sales just last year alone.

We exported $1.3 billion worth of agricultural commodities in this last year, an amount that is estimated to increase by $240 million through passage of GATT. University of Purdue economists are predicting today that the passage of GATT will inject $63 million into the Hoosier farm economy each year and will cause farm income to rise 1.5 percent.

There has been a crucial fact missing from this GATT debate, and it is central to the American way of life and to the promise that the American economy holds for our workers. That is a fact that we should never forget and a fact that I think is determinative in this debate. The American worker is the best in the world in terms of productivity. We can compete with any country anytime, anywhere. America's overall productivity is 30 percent higher than that of the Japanese worker. Our manufacturing productivity is 28 percent higher. These are astounding figures when compared to one of the most dynamic economies in the world, West or East.

But GATT, which is certainly a global agreement, has a major local impact on where it is we live and where we work and where we raise our families.

So, once again, I return to Indiana. In Gary, our U.S. Steel plant uses only 2.7 man-hours to produce a ton of steel, compared with an average of 5.4 manhours in Japan and 5.6 in Germany.

Let us compete and the American worker can do great things. To opt out of GATT would be to opt out of a dynamism that is the future not only of the American economy but of the world economy. We must recognize this reality. We must recognize this truth, this fact that is changing the way that America works, is changing the way the world works. If we do not meet this challenge, if we do not compete successfully to meet this change, we will see declining productivity, we will see declining opportunity, we will see declining job opportunity for American workers. But if we do meet the challenge, as we are accomplishing in our manufacturing and service industries today, if we do meet that, America will see a continued rise in our standard of living and in employment opportunities in this country.

As the world's largest economy, the United States stands to gain more than any other country from increased commerce that could be generated and will be generated, I believe, by a new global trade pact. GATT is projected to add $100 billion a year to our gross domestic product just in the next decade. That growth may well represent over a half million new jobs for America's workers.

The North American Free-Trade Agreement, a benchmark which we can look to which was approved just last year after a tough battle here in the Congress, provides a lesson on the merits of open trade. During the first 6 months of NAFTA, United States exports to Canada surged 29 percent and exports to Mexico jumped by 17 percent.

My home State newspaper, the Indianapolis News, said this in a recent editorial:

> Trade has become the prime engine of economic growth in America, which is the world's leading exporter and importer. U.S. workers, who are the most productive in the world, will see more jobs created by GATT.

Mr. President, this agreement, as has been stated on this floor, is not a perfect agreement. It is a negotiated agreement over a decade of time among more than 100 nations. There had to be some give and take. There are portions of it that all of us would like to modify. However, we should not let the perfect be the enemy of the good.

I believe it is a good agreement. I believe it is an agreement that is in the best interest of the Nation and in the best interest of the State that I represent.

The changes incorporated by Senator DOLE in an agreement with the President are important changes. They address some of the fundamental questions that have been raised and important questions that have been raised by many of our citizens. Those agreements, I believe, satisfactorily address the concerns that many of us had when the initial agreement was presented to us by the administration.

I commend the minority leader, Senator DOLE, for his efforts in working with the administration to address these concerns and incorporate these changes that will allow us to go forward and support this agreement.

America is today presented, Mr. President, with a historic prospect. I hope my colleagues will join me in supporting this treaty.

Mr. President, I thank the Senator from Iowa. I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. MOYNIHAN addressed the Chair.

The PRESIDING OFFICER. The Senator from New York.

Mr. MOYNIHAN. Mr. President, I am happy to yield 20 minutes to the distinguished Senator from California, Senator BOXER.

The PRESIDING OFFICER. The Senator from California is recognized.

Mrs. BOXER. Mr. President, GATT is important for my home State of California and I hope it will pass the Senate today.

The GATT Agreement will expand California exports, create jobs, and strengthen my State's economic recovery.

The GATT Agreement will tear down foreign barriers on California-made goods from computers, semiconductors, electronics, pharmaceuticals, and medical devices to construction equipment, steel, chemicals, and wood products.

The GATT Agreement will provide greater protection for California's world-class software and pharmaceuticals and music recordings and television shows. The strength of California's economy—and the promise of our future—are the great ideas of our inventors and entrepreneurs. Too often, these ideas are stolen and sold by pirates in markets abroad—in fact, in 1992 alone, U.S. companies lost between $15 billion and $17 billion from piracy. With the GATT Agreement, we will have more effective tools to attack these pirates.

The GATT Agreement will also expand California's farm exports and create jobs in the agriculture sector, especially for growers of rice, grapes, almonds, walnuts, tree fruit, and vegetables.

The GATT Agreement may mean as much as $10.1 billion in new California exports in the first 10 years. According to the California Institute, California stands to gain as many as 200,000 jobs from increased exports of manufactured products alone. And, exports of services and agricultural products will generate another 44,000 jobs for Californians.

Yes, GATT will be good for California.

But, let me say: I know this agreement is not perfect. It does not do enough to open markets for our entertainment industry, and telecommunications companies, and our aircraft makers.

I also recognize that many are concerned that our strong Federal and State environmental, health and safety laws could be vulnerable under new GATT rules. I understand these concerns and I have thought about them very carefully.

But, let me say: I do not believe that this GATT Agreement will threaten those laws. GATT rules or GATT panel decisions do not have the force of law. Not a single environmental, health, or safety law—at the Federal or the State level—can be changed without action by the Federal or the State Governments. Yes, our trading partners could challenge our laws, but no—our trading partners cannot change our laws.

I have received specific assurances from U.S. Trade Representative Mickey Kantor on this very issue. Ambassador Kantor has assured me that:

> California's strong environmental and consumer protection laws cannot be overturned by WTO rules or dispute settlement panels.

Ambassador Kantor points out that section 102(a)(1) of the GATT implementing legislation states explicitly that no provision of the GATT agreement "that is inconsistent with any law of the United States shall have effect."

I also want to say to GATT critics: GATT is not NAFTA. GATT is about creating a more level playing field for American exports around the world. The GATT Agreement creates trading rules that 123 nations will agree to live by—and many of these nations have a standard-of-living that is the same or above that of the United States. In contrast, NAFTA created a special trading relationship with one country—a low-wage developing economy.

The GATT is not NAFTA because, under the GATT, Congress has the power to say: "We want out." The GATT implementing legislation provides an expedited procedure for Congress to revoke its approval of the GATT Agreement; NAFTA did not provide this kind of mechanism for Congress to end U.S. participation in the trade arrangement.

GATT is not perfect. But, GATT will be good for California and GATT will be good for the economic health and growth of our entire Nation. GATT—or no-GATT—our industries and our workers already compete in a global marketplace. Our industries and our workers face competition—not only within our country—but also with industries and workers on the other side of the globe.

GATT—or no-GATT—this is economic reality. Trade—in all parts of the world and in all sectors of our economy—is expanding rapidly. GATT is an opportunity to see that this trade is fair.

The GATT agreement creates rules that all nations will have to play by—creating a better and more fair climate for U.S. industries and workers who must compete in this global marketplace.

This Nation—and especially California—has always been ready to look forward and face new challenges. Competition in the global marketplace is among the biggest of these challenges. But, we are ready—ready with the best, most productive workers and bold new ideas. We are ready with industries that produce what the world wants to buy.

Since my youth I wondered what it would be like to have a world that was no longer divided between the Soviet Union and the United States of America. I wondered what changes would come with the end of the cold war.

When I became a Member of Congress in 1983 that dream seemed very far off. The United States and the Soviet Union had missiles pointed at each other; children had nuclear nightmares; stories appeared that the Government had an underground maze as a place to survive a nuclear attack; every year more and more deadly missiles with multiple warheads were built with precious tax dollars.

Then the physical walls came down in Europe. The Gorbachevs and the Walesas and the Havels changed the world. Communism collapsed of its own weight and, although the world is certainly volatile, complicated and dangerous, it is no longer divided between two nuclear armed camps.

You might wonder what all that has to do with GATT. What does all that have to do with the General Agreement on Tariffs and Trade? To me, it has everything to do with it.

The challenge for America now that we have won the cold war, is to continue to be the leader in the world. Yes, we will always be the most powerful. Today, we spend 500 percent more on the military than all of our potential enemies combined. We will always have a powerful military. But being a leader also means engaging in the world diplomatically and economically. And when we engage in the world economically, we have the opportunity to do so much for our Nation because we will influence people all over the world and we will help people all over the world.

When we have the chance to make lives better for the people of the world with our abundant food, our pharmaceuticals, our computers, our services, our know-how, our country will gain influence and friends among the people of the world.

I look at GATT as a major part of the peace dividend. The countries that have signed the GATT Agreement include many who were once behind the walls of communism and other countries that now feel free to join the world economic system because the cold war is over.

So in the large sense: I see world trade as one answer to avoiding conflict and isolation. The more countries that are involved the better.

From the standpoint of the direct benefit to our Nation I think the answer is clear: the most productive nation in the world should not shrink from engaging in the world's commerce, it should enthusiastically accept the challenge and win the competition.

Right now we are the world's most competitive economy. In fact, the World Economic Forum in Geneva in its "1994 World Competitiveness Report" ranked the United States the world's most competitive economy for the first time since 1985—above Japan, above Europe, above all the nations in Asia. The United States was the world's No. 1 exporter of goods and services last year. The American work force is the most productive in the world—the productivity of workers in France is 91 percent of the United States level, in Germany it is 86 percent of the United States level, and workers in Japan are at 73 percent of the productivity of American workers.

We have been tested. We have had our fiscal nightmares like the S&L scandal which came about because of greed. For a while in the 1980's we didn't seem to value productivity, only wealth. But we saw our country moving backward and we saw our Nation building up debt and we turned it around. It hasn't been easy.

I remember when President Bush had a dinner in Japan and he got sick and that became a symbol of our economic weakness. We tried to tell the nations of the world what to do with their economies but they wouldn't listen to us because we weren't leading by example. But, now we are. We have reduced the deficit 3 years in a row; we will have the fewest Federal employees since John Kennedy and we are productive and creating jobs. President Clinton deserves credit for this, although

he rarely gets it. We are getting our economic house in order. This is the right moment for us to step up to GATT and lead the world.

Change isn't easy. The opponents of GATT speak to our fears. They talk about lost jobs to imports. But they don't speak of new jobs from exports, exports all over the world, exports to new and growing and exciting marketplaces all over the world.

Yes, there will be a World Trade Organization with the authority to judge if the rules are being followed. But, if this organization steps over their bounds and begins to encroach on our sovereignty we can pull out. That is a real safety net and one which this Senator would not hesitate to use if necessary.

Looking out to the future we need to ask ourselves where will the customers come from to buy American goods. In America, of course. But beyond America. Too many times we have been stopped by tariffs and barriers. With GATT that will end and I believe in America's ingenuity and skill. We will sell our products and people will come back for more and there will be more jobs.

There is one world now. And that world looks to America. Whenever I travel I am so taken with the world's fascination with our Nation, with its interest in our Nation. America's TV is all over the world. America's music is all over the world. America's blue jeans are all over the world; America's hamburgers are all over the world. All of our products should be all over the world. We will dominate in trade because of our productivity, because of our ingenuity and because we are a free people, free to be creative. But we need rules, and GATT will give us fair rules.

We have a tremendous opportunity with the GATT, in this shrinking world to expand the reach of the American people through trade.

That is the future I believe is best for my State and for my country. It is the future that is best for the working men and women of this country, whom I care deeply about. I hope and trust that a strong majority of my colleagues see it that way.

The PRESIDING OFFICER. Who yields time? The Senator from New York.

Mr. MOYNIHAN. Mr. President, may I congratulate the Senator from California for a thoughtful, comprehensive and spirited statement about this subject: Step up to the GATT and get on with the future; we are the most competitive economic power on Earth; we were not leading by example, we now do; now is the time to go on.

I think that is exactly the spirit in which you end up this decade and this century.

The PRESIDING OFFICER. The Senator from Oregon is recognized.

Mr. MOYNIHAN. I yield the floor.

Mr. PACKWOOD. Mr. President, waiting for another speaker I might allocate some time for myself.

I want to talk a bit about this argument as to whether or not this loses money—we passed GATT and it loses money—because it is very critical that those who are viewing this understand the difference between static revenue estimates and what we call behavioral or dynamic revenue estimates.

A static estimate, Mr. President, is this: You presume no change in behavior. If you have a 25-percent tax rate on all the people in this country and that produces $1,000, you raise it to 50 percent and you get $2,000. Raise it to 100 percent, you get $4,000. I suppose if you raise it to 200 percent, you get $8,000. That is a static revenue estimate.

I, at one time, asked the Joint Tax Committee, which is the professional group that advises us, if they could do an estimate of how much money we could raise at a 100-percent level of taxation. And they said, well, they really could not do that exactly, but they could tell us how much money there was that was untaxed over $100,000 and how much we could apparently raise if we taxed it all. So their estimate indicated that in the first year at 100 percent rate of taxation, we would raise something, as I recall, let us say $120 billion, the second year $140 billion, and the third year—they do these 5-year estimates. Each year it kept going up.

So I said, "You mean to tell me that if we have a 100 percent rate of taxation for 5 years in a row, the revenues will go up every year?"

And they said, "Well, we presume no change in behavior."

I said, "You mean to say at 100 percent rate of taxation you think people will keep working?"

Then they did say they thought if the taxpayer thought there was no hope of getting out from under and no way to defer this income tax past 5 years, no way to avoid the tax, that they would expect a significant downturn in activity and a downturn in Federal revenue.

Well, that is static revenue projecting and, of course, behavior changes. You tax somebody 100 percent and most people will not work very much if they have to give it all to the Government. You lower the taxes to 90 percent, some people might work; you keep 10 percent. That would be a behavioral change, dynamic change. You lower the tax rates a bit, lower it to 80 percent, maybe more people would work.

Now, of course, everybody can see the undertow that is coming. This leads to the theory of supply-side economics: You cut the taxes and cut the taxes and more revenue comes in. Dr. Laffer was right in his theory of the Laffer curve. He tried to say there is a point on a parabola that is the optimum level of taxation that raises the most money. And if anyone knows where that exactly is, that person should be in the stock market rather than attempting to predict taxation. Well, that is dynamic or behavior prediction. You change the rates, people's behavior changes.

In the revenue projections that we are doing on this bill, we are projecting revenues on a static basis because our rules require that. So we are saying, if the present tariffs raise a million dollars and we lower the present tariffs, we are going to lose money. It does not presume any increase in trade. It does not presume any increase in activity that would raise money from other sources.

Now here is the interesting difference. There is not a respectable economist that I know of from the far left to the far right that says this bill loses money. The Congressional Budget Office has had to predict that it loses money because they have to predict on this static basis. The Office of Management and Budget will say if we must predict on a static basis, it loses money. But they will both say unofficially, "We don't think it loses money."

Why are people afraid of those kinds of predictions? It is understandable why we are hesitant to get into dynamic predictions, but I want to emphasize again, to the best of my knowledge not a single respectable economist from the left to the right says this bill loses money.

The reason we are hesitant to use this form of revenue estimating normally is that every zealot group that believes in a cause is convinced that if we will spend money on their cause now, it will save money in the future. Come in and spend $5 billion on juvenile crime prevention now and it will save us $30 billion on prisons 20 years from now. Spend more money on education now, people have more education if they go to college instead of high school, they make more money, they will pay more taxes, we will get more money back than we spend. Everybody says that. And the zealots believe it. There are programs where I believe that.

But the trouble is, there is no one who believes in a program who thinks that program is going to lose money. So we have to have some middle ground of attempting to dispassionately, bipartisanly attempt to estimate what is going to happen if you change tax rates. And here, because we are going to get into this again on capital gains this year, I want to talk about the capital gains tax.

Three years ago, President Bush proposed a capital gains tax cut. The Treasury Department predicted that over 5 years, the cut would produce about $12 billion in revenues. The Joint Tax Committee, the professional group that advises the House and the Senate,

predicted that over the same 5 years, it would lose about $12 billion and this became a cause bell between those who wanted it and those who did not. Those who did not said this is a boondoggle for the rich and the poor will have to pay for it. Those who wanted it said this is going to give us $12 billion we can spend on the poor.

The irony is the Joint Tax Committee and the Treasury Department were not very far apart. Both of them were attempting to estimate on a behavioral basis. The base of transactions upon which they were basing their estimate was trillions of dollars—trillions. Twelve billion dollars, plus or minus, was so close to being almost the same prediction, well within the margin of error, that we should not have been hassling, but philosophy swept us up in the argument. It was a very, very close estimate between Treasury and Joint Tax.

Here would be the difference in guessing, but magnify this a million times over. Let us say that the capital gains tax is $10 a transaction. Let us say a $10 stock transaction, and you had 100 transactions last year. A thousand dollars in taxes come in.

Now somebody says, "Let's cut the tax to $5 a transaction and we will raise money." But if you are going to cut it to $5 a transaction, then instead of 100 transactions, you have to have 200 transactions to get the same thousand dollars.

In essence, what Treasury and the Joint Tax Committee did when they were estimating is that Treasury said, we think at $5 you will get 210 transactions; the Joint Tax Committee says we think at $5 you will get 190 transactions, and that was the difference in their revenue estimates and it is the difference between two estimates as to behavior. A static estimate would have been if you cut it to $5, you get $500. No change, no difference in transactions.

I want to emphasize again that in our dealings here, the estimates of revenue loss are based on the assumption that no matter how you lower the tariffs, there is going to be no difference in the quantity and quality and cost of the goods that come in. It would be the same number of goods regardless of whether there is a tariff or no tariff, regardless of whether there are barriers at the border that keep it from coming in or not. That simply is not realistic, and no one I know says it is realistic.

So I hope we can put this boogeyman to bed that what we are trying to do costs money. It does not. Because of our arcane budget rules, we have to score it that way, but it does not lose money.

Now I want to talk about one other situation, and this is a little more difficult to talk about. There are winners and losers in any kind of trade arrangement.

Let us say the United States and Germany are negotiating trade agreements, just the United States and Germany. And we say to Germany, "We think you are not allowing us to sell our telecommunications equipment in your country fairly.

You have an unfair barrier or tariff and we cannot sell our telecommunication equipment fairly. Germany says we think you have an unfair barrier to our pharmaceuticals and we cannot sell our pharmaceuticals in our country fairly. So we work out a deal with Germany. We say if you will lower your telecommunication barriers we will lower our pharmaceutical barriers. The Telecommunication Manufacturing Equipment Association of Germany, if there is such a thing, does not like that arrangement and probably the Pharmaceutical Manufacturers Association in this country does not like that arrangement. There is a give and a take.

But what it means is that German consumers will be able to buy at least telecommunications equipment cheaper and probably better because there will be more variety and more competition. And, conversely, you have a greater option of pharmaceutical options in this country. The consumers benefit in both countries. The industries that are affected do not like it, understandably. Most of these industries are decent, well-intentioned.

I really am using a wrong example of pharmaceuticals because they are one of the leading edges in the world. They produce in this country a tremendous surplus balance of trade. And one of the great things they get out of this agreement is their intellectual property protection. So their drugs cannot be copied, stolen, or manufactured elsewhere and they get paid nothing for them. I do not mean to in anyway say this industry is slacking. They are tremendous from our standpoint.

But almost every industry is convinced that it cannot stand competition. You see the world through your eyes. I mean you grow up. Here is the forest as you live in it. It is hard for you to step back and see anything but trees.

So there is a give and a take. One of the gives I fear to say may be the apparel industry. I remember once the chairman of the Finance Committee, Senator MOYNIHAN, saying we have not yet learned how to automate the making of a man's suit. Not the textile industry. That is very capital intensive. Their exports as a matter of fact are going up. Japan is instructive on this.

I think I heard earlier somebody saying go out and try to find a garment that says "made in U.S." You will see that it is made in Bangladesh, Singapore, India, Hong Kong—none made in United States. Thirty years ago Japan was in the top 5 in the export of apparel, and also the largest exporter of textiles. Today, Japan is not even listed in the top 25 of apparel exporters. Maybe, but it is difficult to go to any clothing store in this country and find a garment that says "made in Japan." They nearly got out of the business. They realized they could not compete in a heavy hand labor business with Bangladesh. But they did not get out of the textile business. That is capital. That is machines. That is immense investment in highly-skilled, technical, well-paid workers. They are still in the top 10 in the export of textiles in the world.

If we are going to sell Boeing 747's, and American pharmaceuticals, and General Electric nuclear reactors around the world, the world has to have dollars to buy those things and in order to have dollars they have to sell us something to get dollars so they can buy what we can make best.

I used the example earlier. It is not all necessarily advanced high technology. I used the example earlier of a company on the outskirts of Portland, OR, called Denton Plastics. They are in the business of recycling garbage plastic, the kind of plastic you get when you come from the dry cleaners or the plastic or the paper at the grocery store, those kinds of things. They recycle the plastic wrappers you find on a frozen food package with all the colored carrots, beans, and all those different colors on the packages. They only have 40 employees.

How often have we heard on the floor the multinational corporations who are going—they have 40 employees. It is 11 years old. Mr. Denton is still the principal owner of the company. They take all of this garbage plastic and somehow squeeze it, heat it, and crush it.

Here I have an example. Here is the kind of bag that they take. It is a normal bag you would get. Here is the kind of wrapper that you might find on a frozen food package. They take all of this and they crush it up, heat it up, and out comes these little black plastic pellets which they then sell to China and Thailand and Korea who in turn make yo-yo's out of them and sell them back to us. This came from this.

I talked with Mr. Denton not an hour and a half ago. I said to him, "How on Earth can you compete with China in your kind of a business?" He has been to China several times. He sells in China where this yo-yo comes from. He said what the Chinese do is they have something like this. They will take a pair of scissors and they cut by hand the color out of it because they do not have the process for taking all of this, wadding it up and throwing it in the big heated vat. Then they will even take something like that and try to cut it into different colors by hand.

I said to him, "Mr. Denton, how much is your floor labor costs?" And I mean on the floor, not as research and development, and not Mr. Denton's salary. He is not going to move to Beijing. His R&D is not much. "How much are your floor labor costs?" He said, "Just

a minute. Let me check." I could hear him looking: 10 percent. It is not worth moving to China when your labor costs are 10 percent. That is not the key to your competitiveness around the world.

That is how you can compete with a company that pays whatever we have heard today, 3 cents an hour, 30 cents an hour, $3 a month, whatever. The labor costs are de minimis. Go to any of our major electronics companies.

Intel is an immense operation in Oregon. They are just about—they have already made their announcement—ready to put in a new $1.2 billion plant in addition to, not 20 miles away, a $700 million expansion on a plant they already have. They are the biggest single private employer. Their company was founded in 1969. I asked them. "What are your floor labor costs?" They are 6 percent, or 7 percent. This is a highly capital intensive company; 6 or 7 percent. The only reason they are overseas—if they have to go overseas—to manufacture—is to be in the market to overcome trade restrictions in that market.

Those are the kinds of things that this GATT Agreement breaks down. Intel is not investing close to $2 billion in Bangladesh or Singapore or Malaysia. They are investing it in Oregon; Oregon, U.S.A. Oregon is a high tax State, comparatively speaking. We have no sales tax in Oregon. So we have a very high property tax and a very high income tax and a high corporate income tax. With all of that, they can compete throughout the world manufacturing in what is allegedly a high-cost country.

We cannot compete in everything. There are some things other countries can do better than we can, but there are not many things that they can do better that involve intellectual property. In films, Hollywood dominates the world; television, New York dominates the world. We have two kinds of merchandise figures. One is basically industrial things: refrigerators, cars, airplanes. We call that merchandise. The other is services, credit cards, insurance. Take Visa. Take Master Card. Take American Express.

They license the use of their card all over the world, and the licensee pays dollars to the American company. That is services. We have an immense surplus in trade in this country in services, and it is getting bigger and bigger as the world becomes more service oriented in comparison to its manufacturing base, and I mean the whole world's manufacturing base. But that is all of the service industries dependent upon quick and accurate communications. They do not have immense machinery like a shipbuilding facility. It is small and quick. Can we compete? You bet.

So as we consider this bill, remember just these few points: This bill does not cost money by anybody's rational scoring that I know that lives in this world, right or left, conservative or liberal. Two, if we are going to trade in this world, we are going to have to buy some things from other countries so that they have some money to buy things from us. And the things that we want to do and the lessons we should have learned are the kinds of lessons that Japan taught us some years ago. There are certain industries that you can justify keeping, and others you cannot. One I did not mention—and it is not so much a competitive thing—is aluminum. Japan, almost 20 years ago now, got out of the aluminum business. They are an energy-poor country. They have no coal, no oil, no natural gas of any consequence, no great rivers to dam up for electricity. Of course, the reduction of aluminum is an immensely electric-consuming, energy-consuming industry. Japan just said, "We are getting out." My hunch is they probably had a little base of aluminum workers, probably unionized, that did not like it. Japan said they had better things to do with their money.

In 1969, 1970, maybe 1971, I was a young Senator here, and Oregon was trying to sell beef in Japan. We were having a dickens of a time coming in. We are much more successful in their market recently. A young economic attaché in the Japanese Embassy came to my office, and I thought he was both wise and perceptive in explaining why he had no intention of letting us in. He said, "Mr. Senator, your States, this country, the United States, produces very good beef. I am convinced that if we opened up our market to your beef, you could probably find $500 million to $1 billion in sales in your beef, and that is $500 million to $1 billion we need for oil and not beef. We cannot afford to spend it on beef. We raise a little beef ourselves, but frankly we need it for oil." That was a rational answer, I thought. You only have so much money. But we have crashed their market in beef, and in a good many other products now.

So, Mr. President, I hope, as we continue to debate this tonight, and then into tomorrow, that we will remember this does not cost money. This bill produces money, except under our arcane method of scoring. There are winners and losers but, on balance, America is the winner for this reason: On average, tariffs and other restrictions are higher in countries around the world where we try to sell our products than they are in this country where other countries try to sell their products.

At the moment, the present world trading system disadvantages us. This bill that we are now considering attempts to bring down tariffs significantly, but it is as if we are starting with the world here; zero is here and the world is here and we are here, and what we are trying to do is this, come down, get them both down to zero eventually. We do not even make it in full with this agreement. But it gives us a better opportunity for trading throughout the world than we have now, and that, if no other reason, is a justifiable reason to vote for this bill.

I thank the Chair.

Mr. MOYNIHAN. Mr. President, I thank the soon-to-be chairman of the Committee on Finance for a very thoughtful and precise statement. This legislation will not lose any money. But if we are going to talk economics for a bit, I wonder if I could add just a 4-minute statement about what economists have come to call the "trade cycle" in particular activities, which is that when it is typical for a product in the United States to be developed here, then to be exported to foreign countries. Then it begins to be manufactured in foreign countries, and then it begins to be exported back here. That is a perfectly normal cycle. There are good economic reasons for it and it makes perfect sense, as long as by the time the exports of our original product get back here, we are making something new. And we are, as the Senator has said.

We are the most competitive Nation on Earth in intellectual properties, and that being the case, yes, it can be a little disturbing to see familiar American products arriving with strange foreign names. Daniel Boorstin, our distinguished former Librarian of Congress Emeritus, in his book on the Americans, described how one of the ways these people from all over God's Earth got together and became a nationality was in part by the Model-T Ford, and other artifacts we manufactured here, which were very distinctly American, and we all knew about them, and that is why we knew about each other. Well, when that Ford equivalent starts being called a Nissan something, you start saying what is going on in our country, when in fact it is something that is very normal.

We have begun exporting computer chips, and the day will come when they come back and Intel will have something else. So there will be a new Intel. These are unsettling things, but nothing has equaled the growth in the wealth of nations—and this Nation in particular—than the growth in trade since the reciprocal trade agreement of 1934. That process began with Cordell Hull. Four years earlier, under Smoot-Hawley, we got tariffs to the level of 60 percent, and our exports dropped two-thirds in 2 years. We have a historic moment here at the close of the century, and it is looking good.

May I ask a question of the soon-to-be chairman? You are feeling good about this agreement, are you not?

Mr. PACKWOOD. I am feeling wonderful about this agreement.

Mr. MOYNIHAN. Mr. President, do you hear that? We feel wonderful.

Mr. PACKWOOD. Is that the question?

Mr. MOYNIHAN. That is the question. I think it appears there are no further speakers desiring to speak on our side.

Mr. President, I suggest the absence of a quorum, the time to be divided equally between Senator PACKWOOD and myself.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. PACKWOOD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PACKWOOD. Mr. President, I yield to the Senator from Missouri such time as he might want.

The PRESIDING OFFICER. The senior and distinguished Senator from the State of Missouri is recognized.

Mr. DANFORTH. Mr. President, I thank the Chair and I thank my friend from Oregon.

Mr. President, I strongly support the GATT agreement and strongly support the enabling legislation that is now before us in the Senate.

There is no doubt in my mind that if the United States is going to face the future, we have to compete with the rest of the world. We cannot as a nation pretend that the world does not exist. We cannot as a nation crawl into a hole and hope that somehow the world will pass us by, because if we do crawl into a hole, the world will indeed pass us by and relative to the rest of the world America will get poorer and poorer. So the concept of an international marketplace is one that in my opinion we are committed to and must be committed to as a nation.

Many people point out the fact that in international trade today the rules are not applied fairly to the United States. Many people have said that they believe that Americans can compete with any country in the world provided that the playing field is level, provided that the rules are fair.

But, Mr. President, in today's world the rules as they are applied are not fair, and one of the key examples of that is the series of problems that American soybean farmers have had with competition from subsidized oilseeds in Europe.

On two different occasions a GATT case has been brought and on two different occasions the GATT case has been won by American soybean farmers and on two different occasions there has been no result from winning those contests.

A lot of people have commented about the World Trade Organization as though it is somehow a threat to the United States. But the fact of the matter is that the World Trade Organization would make it possible for once to have enforceable rules of international trade. The problem in world trade has not been that the United States does not comply with the rules. We do comply. We have a long history of negotiating trade agreements and then abiding by those trade agreements because that is the kind of country we are, but other countries do not necessarily abide by agreements or play by the rules.

And what happened in the two oilseed cases that were brought by American soybean farmers is that we won those cases and then the European Community said simply: We do not care whether you won or not. We are not going to do anything about it.

So the present state of affairs is that we have an unworkable system. We have a system that does not act to the advantage of American farmers. It does not necessarily act to the advantage of Americans because other countries can abide by the rules when they want to or forget the rules when they want to and we cannot do anything about it.

One of the great accomplishments of this trade agreement is that it does provide for better enforcement than we have today, and better enforcement is something that is going to be to the advantage of the American people.

Now, some have said, well, how about the budget? Does not this forgo certain revenues? And it does forgo certain revenues, tariff revenues by the United States. But, Mr. President, I believe that is a technical argument rather than a real argument because the fact of the matter is that by expanding international trade, we will create somewhere between 300,000 and 700,000 new jobs for the American people, and there is no way that we can create 300,000 to 700,000 new jobs for the American people without simultaneously creating more revenue for the Government. It is not a revenue accomplished by the tax increase. In fact, it is a revenue increase that is accomplished by the largest international tax cut in history, but the effect of it is to stimulate economic activity, create more jobs, create more American jobs, more good American jobs, and with those additional jobs comes more income, more revenue to the Federal Government, more spending by people, a ripple effect throughout the economy and better opportunities for all of us, including a better situation for the budget deficit.

So the argument that somehow this has a negative effect on the budget is flatly wrong.

I would like to just make one other point, Mr. President. It is something that I think all of us understand. There is a natural fear by a lot of us of the unknown; a fear that when we enter the future, when we enter new challenges as a country we are going to be hurt. There is a comfort in the status quo. There is a comfort level in not having change. There is a comfort level in not having to compete as a country. And I understand that. If you compete, maybe somebody else will do better than you do. Would not it be better if we have no competition?

But, I do not think that this land of ours is the land of the timid. I do not think that it is the land of the fearful. I do not believe that the American people deep in their hearts really think that America just is not good enough to keep up with other countries of the world.

I think that most Americans feel that, given the opportunity, we can compete with any country, anywhere. Given fair rules, we can compete and we can win that competition with anybody. And that is what trade legislation and that is what trade agreements are all about. It is to create the possibility of real competition, not slanted competition, unfair competition, but real competition so that the American people will have the opportunity to sell what we produce on international markets.

This trade agreement, for the first time in history, limits agricultural subsidies. We wish that the limits would have been more stringent than they are. But for the first time there are some limits on agricultural subsidies and the agricultural subsidies of particularly the European Community have acted to the detriment of our country. This agreement establishes trading rules for intellectual property rights and for trade and services. These are two areas where the United States clearly has a competitive advantage over the rest of the world. Intellectual property, that is trademarks, patents, the inventiveness of the American people. It is a terrible situation when American effort and American ingenuity creates a new patent which is promptly stolen in another part of the world.

This covers intellectual property. It covers trade and services. And there is no doubt in my mind that in doing so this is to the advantage of Americans and of American jobs.

So, Mr. President, I am very supportive of this GATT agreement.

I want to pay a special compliment to the U.S. Trade Representative, Ambassador Mickey Kantor, and to his associates at the U.S. Trade Representative's office. I have, over the past year, noted certain problems that I had with the agreement as it was negotiated; problems relating to whether or not governments are going to get in the business of subsidizing especially high-tech industries and problems of whether or not we would open up future rounds of trade negotiations which tied trade policy to extraneous matters, even desirable extraneous matters, including labor standards and the environment. Those problems have been worked out to my satisfaction.

I want to express my appreciation to Ambassador Kantor for his willingness to work with interested Senators in addressing these very thorny questions.

But all in all, Mr. President, this is a really magnificent accomplishment, an outstanding trade agreement, and one which will greatly benefit the people of our country.

Mrs. KASSEBAUM. Mr. President, I rise today in support of legislation to implement the Uruguay round agreement of the General Agreement on Tariffs and Trade [GATT]. After months of study, questioning, and debate—both in Congress and in Kansas—I am convinced that this trade agreement is vital to our nation's economic future.

For half a century, the world's trading powers have recognized that everyone benefits from having basic rules of the road for international trade. That is why we have participated in the GATT system since its inception in 1947. The issue before us today is not whether to have an international system of trading rules but whether we can improve the rules that already exist.

I believe that we can.

The Uruguay round agreement—which resulted from 7 years of hard negotiation by the past three U.S. administrations—is not perfect. But in many key areas, it marks a significant improvement over the system now in place.

For the first time, this agreement will afford the protection of law to our farmers and agribusinesses who rely on overseas markets. It will help protect our rapidly growing industries that trade in copyrights and patents. It will offer the first protection in history to our businesses that sell services overseas.

The agreement will cut tariffs and help reduce Government interference in the free market around the world. It will make deep cuts in taxes on imported goods, and consumers will be the winners. Tariffs worldwide will fall by roughly one-third. And, companies in the United States—which already have less tariff protection than many of their competitors abroad—will come out ahead.

For example, I was contacted by Flexel, Inc., a cellophane manufacturer with more than 300 good jobs at its plant in Tecumseh, KS. More than half of Flexel's product is sold overseas, but today the deck is stacked against this small American manufacturer. The U.S. tariff on imported cellophane from Flexel's competitors in Europe is 5 percent; the European Union tariff on U.S. cellophane is 13 percent. The GATT agreement will level the playing field, lowering the European tariff to match our own.

As the critics point out, certain U.S. tariff barriers will have to come down in return. But it is clear that, overall, our domestic employers will gain far more than we concede. Consider, for instance, overall industrial tariffs. Under this agreement, we will reduce ours by 1.6 percent. By contrast, India will cut its industrial tariffs by 15.0 percent. Japan by 2.5 percent. The Europeans by 2.3 percent.

I believe we are winners with this agreement. However, many thoughtful people genuinely do not. I am deeply disappointed at the failure of the GATT's supporters to take the case to the people and to lay out clearly and precisely the arguments in favor of this agreement. I also have been disappointed by the unwillingness of many people on both sides of this debate to listen to the arguments of those who disagree—and to respect their sincerity.

Many Kansans worry about the role of the new World Trade Organization [WTO] and its potential to affect American sovereignty. They do not want an economic United Nations where the world's largest economic power has no more influence than any other country.

I share those concerns, and I have raised them with numerous trade experts, both in and out of Government. The WTO system has no relationship to the United Nations—indeed, the member countries have explicitly rejected any ties to the U.N.

Most of the changes that WTO will make in the existing GATT system are aimed at fixing problems that long have disadvantaged the United States.

For example, under the current system, decisions of the panels that settle trade disputes cannot be enforced by the country that prevails. And they are frequently ignored by the country that loses. Because the United States brings and wins far more challenges than any other country, we need a system that lets us enforce the rules. And that is precisely what we got in this WTO agreement.

For half a century, we have been members of a world trade organization known as the GATT Secretariat. This debate should focus on how the new WTO will differ from the existing organization that it replaces.

The new WTO will strengthen the procedural protections that the United States—and other countries—have in defending their trading rights. I believe we must get past the generalities and look at the details of how this WTO will work:

The current GATT can amend the trade agreements in ways that do not alter members' rights or obligations with only a ⅔ vote of the members—under WTO, a ¾ vote would be required to get to an amending vote, and no amendment would bind any country that votes "no."

The GATT can change the agreements in ways that alter members' rights and obligations by a ⅔ vote—under WTO, a ¾ vote is required.

The current GATT can expel by majority vote a member who refuses to accept changes in trade rules—under WTO, a ¾ vote is required.

The current GATT can interpret the substantive trade agreements by a simple majority vote—under WTO, a ¾ vote will be required, and protections are included to ensure that amendments masquerading as "interpretations" are not permitted.

The current GATT permits a majority of members to decide to take trade actions not specified in the agreements as long as those actions facilitate the operation and objectives of the GATT—the WTO eliminates this broad freelance provision.

The current GATT makes trade decisions only by consensus of all members, but that requirement is customary rather than required—the WTO mandates that decisions must be by consensus.

The current GATT establishes ad hoc panels to settle trade disputes among nations, and their rulings are final—the WTO adds a new opportunity to appeal panel decisions.

I was further reassured by the protective agreement worked out recently by Senator DOLE, which ensures added review of WTO judgments against the United States. If a panel of American judges finds that WTO panel decisions are arbitrary and capricious, we can expedite our withdrawal from the organization. The bottom line is simple: Only Congress can change U.S. laws, and nothing in this agreement cedes even one bit of that national sovereignty. That is why conservative Judge Robert Bork, who has studied the agreement, concluded that the sovereignty issue is a scarecrow.

Many also have expressed concern about the budget implications of reduced tariff revenues. But in the end, the budget argument does more to illustrate the shortcomings of the bizarre congressional budget rules than any shortcoming in the GATT agreement. The requirement—unique to the Senate—that legislation be revenue neutral for 10 years after enactment is simply unrealistic. It is impossible to predict with any semblance of certainty what legislation passed today will mean to the Treasury in 10 years. Remember: Ten years ago, it was predicted that the Gramm-Rudman-Hollings legislation would have balanced the budget by now. The budget argument is, at best, uncertain.

This vote is about new markets, less Government regulation of the marketplace, lower consumer prices and expanded American businesses and workforces. I will vote for the Uruguay round agreement because it is in our interest.

But the vote also is about leadership and our ability to shape, rather than follow, world events. Eight years ago, we led the world in calling for this agreement. Our trading partners now are watching to see whether the United

States, the world's largest economic power, will turn its back on free trade.

We must not underestimate the importance of this vote.

I, for one, believe we must lead.

APPOINTMENTS BY THE MAJORITY LEADER

THE PRESIDING OFFICER. The Chair, on behalf of the majority leader, pursuant to Public Law 103-359, appoints the following individuals as members of the Commission on the Roles and Capabilities of the United States Intelligence Community: Senator JIM EXON of Nebraska, and the Honorable Wyche Fowler, Jr., of Georgia.

The Chair announces, on behalf of the majority leader, pursuant to Public Law 96-114, as amended, the reappointment of the following individuals to the Congressional Award Board: John M. Falk, of Virginia, and Ralph Everett, of Virginia.

APPOINTMENT BY THE PRESIDENT PRO TEMPORE

THE PRESIDING OFFICER. The Chair, on behalf of the President pro tempore, pursuant to Public Law 103-394, appoints Jeffrey J. Hartley, of Alabama, to the Bankruptcy Review Commission.

URUGUAY ROUND AGREEMENTS ACT

The Senate continued with the consideration of the bill.

Mr. PACKWOOD. Mr. President, I suggest the absence of a quorum and ask unanimous consent that it be equally charged.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. MOYNIHAN. Mr. President, I ask unanimous consent that the order for the quorum call be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDERS FOR TOMORROW

Mr. MOYNIHAN. Mr. President, on behalf of the distinguished chairman-designate of the Committee on Finance and the Senator from South Carolina and myself, I ask unanimous consent that when the Senate completes its business today, it stand in recess until 9 a.m., Thursday, December 1; that the Senate resume consideration of H.R. 5110 immediately following the prayer, with the time for the two leaders reserved for their use later in the day; that there be 9 hours remaining of the statutory time limit on H.R. 5110, with the time divided as follows: 2 hours for the Senator from New York; 2 hours for the junior Senator from South Carolina; and 5 hours for the Senator from Oregon.

Mr. PACKWOOD. I agree very much and think that is a fair allocation of time tomorrow.

The PRESIDING OFFICER. Without objection, it is so ordered.

MORNING BUSINESS

Mr. MOYNIHAN. Mr. President, I ask unanimous consent that there now be a period for morning business, with Senators permitted to speak therein for up to 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

FAREWELL TO SENATOR JIM SASSER

Mr. MITCHELL. Mr. President, when the 104th Congress convenes in January, our Nation will be without the service of Senator JIM SASSER. I have had the privilege of working with Senator SASSER for nearly 14 years, and I want to thank him for his outstanding service to the American people during this time.

Since 1989, JIM SASSER has had the not necessarily enviable task of chairing the Senate Budget Committee. During these extraordinarily difficult budgetary times, Senator SASSER has been charged with leading our efforts to reduce spending while preserving vital services.

By all accounts, Senator SASSER has done an outstanding job. He worked hard to enact President Clinton's historic 1993 budget resolution which is already working to cut the deficit by nearly $500 billion. Senator SASSER effectively has balanced the many competing demands on our Nation's budget, working to ensure that no single area bore the brunt of budget cuts.

JIM SASSER has been an outstanding Member of the Senate. He has worked tirelessly on behalf of the people of Tennessee and the Nation. I offer him my best wishes as he returns to private life.

FAREWELL TO SENATOR HARRIS WOFFORD

Mr. MITCHELL. Mr. President, I regret that when the 104th Congress convenes next January, our Nation will be without the service of Senator HARRIS WOFFORD. I want to express my gratitude to him for his outstanding efforts in the Senate on many issues of interest to both of us.

Senator WOFFORD has been a leader in this Congress on issues of importance to every American. He has done as much as anyone to bring to the fore of our Nation's attention the need to reform our broken health care system. He has worked hard to advance legislation that would improve patient choice, contain costs, and extend care to those who need it but can't afford it.

Senator WOFFORD was also a leader in advancing the idea of national service. HARRIS WOFFORD's longstanding commitment to the importance of each of us giving of ourselves so that those less fortunate than we might have a better life is unquestioned. He understands the value of public service and was a champion of legislation that allows young people to undertake volunteer work while earning money to pursue a higher education.

Although his time in the Senate has been relatively short, Senator WOFFORD's contributions have been significant. I have greatly enjoyed working with him, and I wish him the very best as he returns to Pennsylvania.

HONORING ABRAHAM ROSENTHAL

Mr. MOYNIHAN. Mr. President, a little less than two weeks ago I attended a marvelous event honoring Abraham Rosenthal and his work on behalf of the Tibetan people. Mr. Rosenthal has enjoyed an illustrious career at the New York Times and almost throughout has found time to remind us all of the continuing struggle of occupied Tibet.

For his efforts, the International Campaign for Tibet honored him with the "Light of Truth Award" at which they presented him with a Tibetan ritual butter lamp from the Dalai Lama himself.

Unfortunately, a recent illness prevented Mr. Rosenthal's attendance, however, his son, Andrew, was there to accept the award on his behalf and to read a statement which he had prepared. I was fortunate to be asked to make a few remarks before the award was presented. I ask unanimous consent that the text of my remarks and those of A.M. Rosenthal's be placed in the RECORD at this time.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

INTERNATIONAL CAMPAIGN FOR TIBET BENEFIT DINNER

(Presented by Andrew Rosenthal)

Sometimes, when I write about Tibet, readers ask genuinely puzzled questions.

Why do I care so much about Tibet? And, given all the other things more immediate to American interest as they see it, why should they care as much as I ask them to?

A third question—since China has not budged for a half century about Tibet, except to make its captivity of Tibet ever more cruel, what makes me think Tibet will ever be recognized for what it is, a nation among nations?

These are important questions, decently intended. The fact that they are still asked makes it more important that we keep answering them. In truth, it is more and more important that we keep answering them for ourselves to ourselves, to keep alive the campaign for Tibet inside us.

They all add up to one question: why? Why is Tibet, almost alone among nations, denied the most elemental rights of nationhood and freedom?

When I was a young reporter, The Times assigned me to help out a the bureau it had set up at the brand new U.N.

The total membership of the U.N. then was fifty six. That struck a British delegate as dangerously large. He warned one day that if the U.N. kept growing, why one day it would be as high as seventy or seventy-five.

Today the membership of the U.N. stands at one hundred eighty four. Among them are many that are minute in population and size. Their most important industry is the bureaucracy needed to run them.

And we all know that there are many others whose people do not share most of the qualities of nationhood—common language, religion or history or historic boundary. Their boundaries and nationhood were imposed on them by colonial rulers in London, Paris, Berlin or Brussels. They were the creations of the bureaucratic convenience of colonial administrators thousands of miles away.

Yet here they are, full members of the U.N. which as the world has turned out most of them should be. Their flags fly on First Avenue and their Ambassadors are treated with dignity around the world—again as it should be.

And yet here we have one nation excluded. Tibet, a nation whose history is almost as old as the memory of mankind. A nation with a common language, ancient borders, united history, a culture unique to the world, a religion that binds together not only its own people but attracts and embraces men and women all over the world.

Tibet is not only barred from the U.N. membership but its representatives usually are not even welcome in its halls and meeting rooms—or in foreign offices and state departments of the world.

So I tell people who write me that the question is not can Tibet be a nation among nations but how did it come to be that this nation, this quintessential embodiment of nationhood, has been so long so cruelly barred and cast out?

The great sadness is that we do not have to search for the answer. Tibet is not recognized as a nation among nations because the other countries of the world—American, European, African and Asian—have made a deliberate decision to abandon it to its captors.

The most important reason is money.

Beijing made it clear that it would reduce or eliminate trade with those countries that supported human rights, let alone political freedom, for the Tibetans. To this economic pressure, virtually every country in the world simply surrendered.

Among these countries were many who really sympathized with Beijing—United Nations members ruled by their own dictatorships. For them, the liberation of any captive people was simply encouragement to their own.

At least they had some excuse—the brotherhood of tyranny.

Our own nation, like the rest of the West, has none. We must state it plainly: U.S. policy toward Tibet has been determined by greed for trade with China at whatever cost in human freedom. Others will put it more delicately. There is no reason for us to do so, no excuse to do so.

All this brings us back to our personal and national interest in China. It is fairly simple. Tibet is a criminal. So am I, so are all of you here, so is our entire American nation.

The same political crimes that bound us to the prisoners in the Nazi concentration camps, the dissidents in the Soviet Gulags, the Latin American and Khymer Rouge death pits, the torture chambers of Syria, Iraq, Iran and Libya, bind us to Tibet and Tibetans.

Every day that we live under the grace of freedom we commit the crimes for which Tibetans have been made captive, tortured and massacred and for which their nations has been sundered, occupied and burned. We talk, we write, we act, we think, we pray. Those are the crimes that bind Americans to all who yearn for freedom and suffer for it.

The U.S. supported political freedom for Eastern Europe and to its credit never recognized the Soviet occupation of the Baltic nations. It supported the nationhood of Israel and is now following a path that will lead to the independence of Palestine. But Tibet has no ethnic or national constituency in the United States.

Only one thing distinguishes the U.S. from other nations, and makes it cherished around the world. It is the belief that political freedom should be universal. Without that belief, we are just real estate, from sea to shining sea.

So we, all of us who support Tibetan freedom, are the seeds of the Tibetan constituency . If we love freedom, we are as criminal as any people, any nation, held in captive captivity. So we are all criminals for freedom. We are all Tibetans—the largest American constituency any foreign nation could enjoy in our land.

I believe this, I believe this constituency will grow and help Tibet taste liberty and I thank you for giving me the chance to say so, through my son.

DINNER GIVEN BY THE CAMPAIGN FOR TIBET HONORING A.M. ROSENTHAL

(By Senator Moynihan)

It is indeed an honor to be asked to speak on an occasion honoring A.M. Rosenthal. I have known him ever so long, and learned from him ever so much, most especially as regards the cause which brings us together this evening, the International Campaign for Tibet.

My first encounter with this transcending issue came with my appointment as ambassador to India a near quarter century ago. What I knew of that region I had mostly learned from Mr. Rosenthal's reporting in the New York Times, not least of which was the fact that India had given refuge to the Dalai Lama after the Chinese invasion of Tibet in 1949. Whilst in New Delhi, I came to know Jagat Mehta, the Indian diplomat who had made these arrangements on instructions from Indian Prime Minister Nehru. In 1974, I attended the coronation of King Jigme Singye Wangchuck of Bhutan, A Buddhist principality bordering Tibet, whose independence the Indians had insisted upon, and in that sense, preserved. Even as the Chinese had seized Tibet.

In 1975, along with my daughter Maura, I visited China as a guest of George Bush, who was then Chief of our U.S. Liaison Office in Peking. By this time, I was persuaded the Soviet Union would break up along ethnic lines. But I was not prepared for the intensity of ethnic concerns in the People's Republic. One was met at the Canton railroad station by a giant mural of Mao surrounded by ecstatic non-Chinese peoples who occupy more than half the nominal territory of the People's Republic. In Beijing, three year-olds in the Neighborhood Revolutionary Committee of Chi Eh Tao nursery school sang a patriotic song for us which began:

We will grow up quickly to settle the border regions.

We will denounce and crush Lin Piao and Confucius.

A refrain which ended:

We will each grow a pair of industrial hands.

Much of that Stalinoid dementia has disappeared from the coastal regions of China, at least for the moment, but not from Tibet. Daughter Maura, just returned from Lhasa, reports that the Mao posters, the population transfers, the anti-religious campaigns are as great or greater than ever.

Is the world to accept the destruction of Tibetan civilization? Are we? Whatever the case with the executive branch, it is hugely important for Americans to be clear that the United States Congress does not. The Foreign Relations Authorization Act, fiscal years 1994 and 1995, Public Law 103-226 signed April 30, 1994, states the matter unequivocally.

"Congress has determined that Tibet is an occupied sovereign country under international law and that its true representatives are the Dalai Lama and the Tibetan Government in exile—"

To drive this postion home, the Senate Committee on Foreign Relations required: "a report on the state of relations between the United States and those recognized by Congress as the true representatives of the Tibetan people."

The report entitle, "Relations of the United States with Tibet", was submitted by the Department of State just last month. It is not without merit, and its authors should be treated with respect, given the policy of the executive branch. But one sentence tell all: "Our policy seeks to support respect for the human rights of ethnic Tibetans, as we do for all Chinese citizens."

In diplomacy this is called "semantic infiltration". Get the other side in a negotiation to use your terms to describe reality as they would wish it understood. Which is to say that Tibetans are "Chinese citizens."

They are not. They are Chinese prisoners, and will remain so until our nation understands the import of A.M. Rosenthal's words written in 1991: "Tibet remains in prison, and the United States still refuses to recognize the right of that ancient nation and people to the self rule it had for centuries."

POSTSCRIPT

While assembling materials for these remarks, my associate, Michael Lostumbo, found a draft of a "Letter From Peking" dated January 26, 1975, which I wrote and submitted to The New Yorker. The closing passage begins as follows:

"While it is agreed that few Marxist-Leninist predictions have come true in the twentieth century, it is perhaps not sufficiently noticed that certain predictions about Marxist-Leninist regimes have proved durable enough. Lincoln Steffens returned from Moscow in the early years, pronouncing that he had seen the future, and it worked. Well, it was one future, and it has worked for a half century, and may have considerable time left before ethnicity breaks it up. Red China works, too, and is likely to last even longer. It is more than worth a visit, this capital city, and its nursery school of the Neighborhood Revolutionary Committee of Chi Eh Tao. This is also a future, and one even more foreboding."

I believe this is the first time in my writing that I stated the belief that the Soviet Union would one day break up along ethnic lines. A no longer brief acquaintance with Central Asia and its history had about convinced me that the Czarist empire was finished. I thought then, at mid-decade, that

this dissolution might require "considerable time." By the end of the 1970s I was persuaded it would happen in the 1980s. A continuing puzzlement to me, which I hope others would come to share, is why it is that American foreign policy has shown so little understanding of this subject. "Chinese citizens", indeed!

I should note that the "Letter From Peking" was never published. The editors at The New Yorker, notably the late Robert K. Bingham, liked it and accepted it. But in the leisurely manner of that eminent journal in those distant days, they were in no rush to publish it. Five months went by and I was appointed by President Ford to be U.S. Permanent Representative to the United Nations. Given the general hostility of my observations, I thought it prudent to ask that the article be withdrawn. The New Yorker editors graciously agreed.

TRIBUTE TO REVEREND SOTERIOS ALEXOPOULOS

Mr. GREGG. Mr. President, today I rise to commend a distinguished citizen of New Hampshire, the Rev. Soterios Alexopoulos, for his outstanding service to the Greek Orthodox Church for over three decades.

Father Alexopoulos was first assigned to the Greek community in Nashua, NH in 1973. At that time, under his leadership, a new church was built which was named St. Philip. Under Father Alexopoulos' leadership, St. Philip's membership has grown from 250 families in 1973 to 450 families in 1994.

Father and Mrs. Alexopoulos' commitment and dedication to their community are to be applauded. Their involvement in the Ladies Society AGAPE, which they organized, the Youth Group, the Greek and Sunday Schools and Bible Study have been instrumental to the community. Father Alexopoulos also served on the Mayor's Council on the Elderly, city of Nashua, the Nashua Council of Churches, the Board of Directors of the New England Clergy Brotherhood, and the Boston Diocesan Council.

In 1987, Archbishop Iakovos of North and South America bestowed upon Father Alexopoulos the highest honor to a married priest, Protopresvyteros.

Father Alexopoulos faithfully served St. Philip for over 20 years. The community thrived under his leadership and he will be sorely missed by his fellow parishioners.

I, along with all the members of the Nashua community, whose lives Father Alexopoulos has touched through his commitment and devotion, would like to extend a heartfelt thanks and wish him all the best for a healthy and prosperous retirement.

TRIBUTE TO SHELDON AND DR. MIRIAM ADELSON

Mr. REID. Mr. President, it is with great pleasure that I rise today to recognize two distinguished members of the southern Nevada community, Sheldon and Dr. Miriam Adelson. On December 11, Sheldon and Miriam will be recognized by the State of Israel as this year's recipient of the distinguished Israel Peace Medal.

Sheldon Adelson is a classic example of the Horatio Alger hero: The son of a poor immigrant family, Sheldon hawked newspapers on a Boston street corner as a young boy, and at the age of 16 bought his first business. Through hard work, determination, and ingenuity, he became an outstanding success and, in 1972, started The Interface Group, a company specializing in trade show events.

Recognizing the rapidly expanding development of computer technology, Sheldon and his partners developed COMDEX, an international exhibition of computer equipment and software held in Las Vegas that draws almost 200,000 attendees each year. Since then, Sheldon's company purchased the famous Las Vegas Sands Hotel and Casino and built the Sands Convention Center, the largest, privately owned convention site in the world. He is currently involved in fostering trade, manufacturing, and international business opportunities in Israel.

His wife, Dr. Miriam Adelson, has an equally distinguished professional background. Dr. Adelson received her bachelor of science degree in microbiology and genetics at Hebrew University in Jerusalem, served as a biological scientist in the Israeli Army, and graduated magna cum laude from the Sackler Medical School at Tel Aviv University.

In 1980, she was named chief physician of the Sourasky Medical Center's emergency room, and she has become an expert on drug abuse and the treatment of drug addicts. Dr. Adelson currently serves as director of the Adelson Drug Abuse Treatment and Research Clinic, the first such center in Israel that operates in a hospital setting.

Together, Sheldon and Miriam have been dedicated advocates for the State of Nevada and the nation of Israel, devoting countless hours and resources to worthy causes in both places. They represent what is good and kind and generous in our country. There are thousands of people throughout the world who have benefited from their talents and assistance, and many more who will never know that Sheldon and Miriam were their benefactors.

I am proud to have Sheldon and Miriam Adelson as my friends and to tell the U.S. Senate and the American people of their accomplishments. I join all Nevadans in wishing the Adelsons shalom and every other good thing on this important occasion.

RETIREMENT OF THE ATTENDING PHYSICIAN TO CONGRESS ROBERT C.J. KRASNER, REAR ADMIRAL, MEDICAL CORPS, U.S. NAVY

Mr. MITCHELL. Mr. President, the 103d Congress will complete its work very soon and enter its final sine die adjournment. When the 104th Congress reconvenes next January, some here today will not be returning.

I would like today to pay tribute to one such person whose presence here has been a great help to all of the Members of the Senate and Senate officials. I refer to Rear Admiral Doctor Krasner, the Attending Physician to the Congress, who will not be returning next year.

Doctor Krasner's appointment to the Attending Physician post is the culmination of a career of service to this institution and more importantly, to the U.S. Navy and the Nation it serve.

His career with the Navy began in July, 1973, with an assignment to Ethiopia when Emperor Haile Selassie ruled, and has led him to service in Sardinia, at our British Embassy in London, in Bethesda at our Naval Hospital, and in Jakarta, Indonesia.

Through his 20-plus years of service, Admiral Krasner has earned some of the highest honors the Navy can bestow: The Navy Commendation Medal, the Meritorious Service Medal, and the Legion of Merit.

Although to the Navy, he is properly known as Admiral Krasner, to Senator he will always be Doctor Krasner.

Doctor Krasner has served two terms of duty in the Attending Physician's office here in the Capitol, as well. He first came to the Congress in 1980, as Commander Krasner and was transferred to Oakland, CA in 1992, where he rose to command the Naval Medical Northwest Region.

In 1986, Doctor Krasner returned to the Capitol, where in 1990, he was appointed the Attending Physician to the Congress.

His work here with us has earned him the respect and friendship of all Senators. Doctor Krasner's professionalism and manner are reassuring to Members. His management and administration of the Office of Attending Physician has created an efficient medical team which gives both congressional staff and Members high-quality care at a moment's notice when needed, and which provides enormous reassurance to us all that a workplace accident or illness will not adversely affect the work of the Congress.

All Senators know that our health care here is a cost that we pay personally. But I am certain that all Senators would agree that no monetary payment could ever purchase the quality of care and compassion that Doctor Krasner has created in the operations of the Attending Physician's Office.

I ask my colleagues to join me in wishing Doctor Krasner, his wife Leslie, and his children, Jessica and Justin, the very best for a happy and successful future. He will be missed here in the Capitol, but I know he will earn the same respect and friendship wherever he serves in future as he has earned here.

JOANNE RATHGEB

Mr. LEAHY. Mr. President, on November 19, my dear friend, Joanne Rathgeb, died of breast cancer. She was at home with her family.

Joanne played many roles in her life. In the theater, she was an award-winning actress, producer, and director. In education, she was an inspiring teacher. In her community, she was a loving wife, mother, sister, and friend. She lived an extraordinary life, bringing joy to everyone who was lucky enough to know her. To those who did not know her, but watched her public struggle with breast cancer, she gave hope.

Joanne Rathgeb accepted the news of her cancer by taking on a new role—citizen activist. She got other women in Vermont, and across the Nation, to speak up and demand more attention to breast cancer research. I was proud to work with Joanne to increase breast cancer research funds. For Joanne and every family touched by breast cancer, I pledge to continue the fight.

Joanne and Don Rathgeb have been two of Vermont's leading citizens. Both brought a wealth of talent and commitment to our State.

When I went to their home after hearing the news, I shared the grief of Don and their family. I told them of how honored I was to have known Joanne and to have been her friend. I also told them that throughout her ordeal with cancer, during our many meetings, she always spoke about someone else's need and never her own. She was a courageous, selfless, and wonderful friend.

I ask unanimous consent that an article from the Burlington Free Press, and the homily delivered by Tony Staffieri at Joanne's Mass of the Resurrection be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

REMEMBERING JOANNE RATHGEB

Don, Laura Mae, Elizabeth and Dan, Laura and David, Donald, Vickie and Caitlyn, Mary Jo and John, Nonny Rathgeb and Sister Mary Elizabeth, FR. Mike Cronogue, President Reiss, honored guests, members of the Faculty of Saint Michael's College, members of Joanne's extended family, neighbors, students and friends:

Good morning. My name is Tony Staffieri, and for the last 27 years I have been proud to call Joanne Rathgeb my friend, my teacher, my second mother, my spiritual guide, and my inspiration. Ever since that day in September 1967 when at 8.30 a.m. Joanne sprang into my life as my very first teacher at Saint Michael's, she has been my friend.

Throughout our friendship, Joanne and I have been there for each other on countless occasions—I remember the day when she first told me of the lump she had found in her breast. We shared our friendship through diagnosis and treatments, ups and downs, weddings, funerals, anniversaries, good reviews and petty reviews. Clearly today is the saddest day of our 27 year friendship.

Before she left us, Joanne had planned for today—you know how she was—never leaving things undone. She asked that I speak here today remembering her for her family and friends and hoping to be remembered for whatever good she did or laughter she brought to us * * * and asking pardon for any name forgotten or for anything left undone.

So how do you characterize a woman who is laid to rest in the black robes of a Benedictine Oblate—who is also wearing a Kermit the Frog watch? That was Joanne! She, like Kermit, knew that it wasn't easy being green. And she would tell you, just like she would tell Kermit, Be true to your greenness; Hold on to your greenility; Don't deny your greenanity. And by all means, remember you're a frog—be proud of it!

My favorite Joanne story happened on her sabbatical in New York City in 1988. What many of you probably don't know was that Joanne was my roommate during her four month sabbatical. If you don't think being Joanne's roommate was a scream, you simply haven't experienced life.

One afternoon when Joanne went out into the scariness of New York City, filled with weirdos, kooks and nutcases (who always seemed a little bit intimidating to Joanne), she had a real New York experience. It seems she was shopping for a Saint Michael's production. And on this particular expedition she had purchased a number of rubber chickens and rubber fish. She came cascading into my apartment as if she had just discovered the secret to cold fusion, and declared, "I finally figured it out—I finally figured how to keep the thugs from bothering me."

What Joanne had discovered on the streets of lower 5th Avenue this cool spring day was, what she was later to refer to as her "rubber chicken lady walk." "There I was", she recalled, "in my nice big coat, hair flying dirty sneakers and a bagful of rubber chickens. If they aren't scared of that, start talking out loud. And if that doesn't work—cross the street, and walk right towards them!"

And that's how one frail woman with a great big coat and a bagful of rubber chickens handled some street thug who probably had a knife and an automatic weapon!—and who's still talking about his encounter with Joanne Rathgeb.

As Dolly Parton says, "Laughter through tears, my favorite emotion."

On October 17 of this year I spent the day with Joanne. Clearly the days left together would be few, and I relished this time to be with her alone for it was my duty and distinct honor to ask her, what she would like remembered here today.

Her cousin, a Benedictine Monk, Brother Gerard, had taught Joanne to see her life and work as prayer. And she later pledged her life to this philosophy of work as prayer. She recalled, "I see everything we do as prayer; from teaching to changing a diaper." And that is how we should all remember Joanne Ellspermann Rathgeb—her life as a prayer.

Recalling her life in this year's fall as the trees foreshadowed what was to come just one month later, Joanne recounted a story she chose never to forget. As she looked out through her front window, she brought me back to the mid 1950s when her student won the first black actor's award in a one play contest in Chicago—an achievement that would be echoed again 30 years later as her students won unprecedented back-to-back awards at the Kennedy Center Honors in Washington, DC.

But back in the 50s though, this was a first for Joanne. Her group of theatre friends—mixed blacks and whites went for a swim at a Chicago beach after the awards ceremony. And she recalled, "The joy of theatre people coming together was shattered because it was a whites only beach." This was an important lesson for Joanne which was to mark her life with purpose and, subsequently, influence thousands from the profound lesson of righteousness she learned that day. Life and work as prayer.

Later in early 60s, Joanne recalled arriving at St. Mary's of the Woods College . . . having just learned that she was pregnant with Elizabeth. "The College had a rule," Joanne observed with a bit of irony, "that all pregnant teachers had to stop teaching. But we had a very progressive president, Sister Mary Madaleva." Joanne went to Sister Madaleva and made her case . . . in a way she was to do 30 years later to Congressmen and Senators in Washington. "Sister," she noted, "you're asking us to teach young women in the world and to equip them to compete on the same level as men—but you're taking us out of the classroom as if being pregnant diminished our brain power." To which Sister Mary Madaleva replied, "My Dear, you're absolutely right. I guess we'll have to change that rule, won't we." And Joanne's been clearing a path and changing the rules ever since. A champion in her work, in her life and in her wonderful manner. Her life and work as prayer.

Joanne cared for others even as she lay dying. When she learned that a colleague's son—Ben Lindau, Buff's son, had been diagnosed with cancer—she made a point to call Buff from her bed to offer solace, guidance and love.

I'm pleased to report Ben is well and back in school and Joanne's care and concern will forever be a fond memory for Buff and her family.

In writing this remembrance, Joanne's friends and colleagues have told me in the last few days that they credit her with saving lives, making careers, and fostering marriages and families. It is no surprise then, that the most important part of Joanne's life was her immediate family. Don was her husband, partner, best friend, director of choice, and coproducer for over 34 years. Never have I witnessed more love and dedication than I did between Don and Joanne—Don and Joanne; it's as if it were one word.

I remember during Joanne's sabbatical visit—she hadn't seen Don for about 3 or 4 weeks. And one morning I found her in my kitchen ironing a dress. Joanne ironing was some surprise. She was singing and humming to herself. Her hair was in rollers and she was like a litter girl * * * and then I realized, Don was on his way * * * and after 25 years of marriage, she was still excited to see him.

I was honored to be one of the children—natural, by marriage, and acquired (that's my category) to have hosted Don and Joanne's 30th wedding anniversary in June of 1990. The commemorative photo album presented at that event was entitled, The Dog is Sticking to the Kitchen Floor. It was

both a remembrance and a review of Joanne's housekeeping prowess. She may not have been the best housekeeper on the planet, but she kept the warmest and most wonderful house anywhere.

Her children filled Joanne's life. Their first child, Elizabeth, strong, determined, caring, and for those of us who babysat for this brood, the ringleader. She is here today with the first Rathgeb son-in-law, Dan Pratt. Then Laura—gentle, gifted, her mother's image, the thought provoker, supported today by her companion, David Leopold.

Then there were the twins: Donald, Jr. and Mary Jo. Donald, now a daddy himself, with his lovely wife Vickie and their daughter—the apple of Joanne's eye—Caitlyn. Donald Jr. is a true miniature of Don Sr., quick with a pun, gentle and loving. And Mary Jo, with her husband John Balaskas and their two dogs, Trixie and Ellie, which Joanne reveled in during their last visit in October. Mary Jo is the one with the impish smile and infectious giggle—the back-up ringleader when Liz was engrossed in Barbie Dolls and wasn't available to lead. In small and major ways they are all a reflection of their mom and dad * * * and we see Joanne in all of them. Her life's work * * * as prayer.

As Bill Mannel, one of Joanne's former students recently observed, Don and Joanne were for many of us a second set of parents, a little more hip than our own folks, more understanding and willing to experiment, but real parents. And for many of Don and Joanne's students, when they moved on to form their own families, Don and Joanne became one of the prototypes they emulated.

And then there was Joanne's professional work. Educated in parochial schools in Terre Haute, Indiana, she attended St. Mary's of the Woods College and Indiana State University, from which she received her BA and MA.

Joanne's life was forever changed when in the late 50s, while taking post-graduate classes at Catholic University, she became affiliated with Catholic University's National Players and another lifelong friend and mentor, the wonderful, late Fr. Gilbert Hartke. She toured for two seasons with the Company as Kate in Taming of the Shrew and in Oedipus Rex, Twelfth Night, and as the nurse in Romeo and Juliet. That tour brought Joanne all over the world—from the 400 year old Teatro Olipico in Italy, to the Carnegie Hall Playhouse in New York City, to the Notre Dame University Theatre in South Bend. It was there she met a dashing young theater professor, Don Rathgeb.

Don thought Joanne, at first, a stuck-up actress—until he found her hammering away on the set one day. They traveled together to Catholic University's Summer Theater, Saint Michael's College, in Winooski, Vermont in 1958—where they were to begin a 36 year run. Two years later, the cute little actress with the ponytail—a young woman whose face we see today in her three lovely daughters and grandaughter—married the man who was to become her very best friend, partner, father of their children, and, in the fall of her life, her primary care giver, devoted servant and compassionate helpmate.

How do you characterize a performance career as diverse as Joanne's—from her New York debut in the Phoenix Theatre Company in Peer Gynt and Lysistrata to my favorite Joanne role, Adelaide in Guys and Dolls, or Opal in Everybody Loves Opal. She brought tears to even the most hardened eyes as Emily Dickinson in The Belle of Amherst, and then too, tears of another kind as Mother Superior in Nunsense. During Nunsense, there seemed at times more nuns in the audiences for Joanne's shows than on stage—we wondered when Joanne was performing who was minding the Convent?

One of Joanne's most enjoyable experiences was performing in the CBS movie, aptly titled, A Gift of Love, as well as several other productions, including Oedipus Rex and Minnie Remebmers. Joanne was unforgettable as the stripteasing, reluctant floozie, Adelaide, in Guys and Dolls as she was as the tapdancing Mother Superior or the stately and detached Emily Dickinson. To each of these roles she brought warmth, depth and humanity. Her life's work a prayer.

As a teacher no one could compare to Joanne. She could take the dullest subjects and breathe life into them. She taught Freshman English in my first year, and despite the 8:30 a.m. class time and four young, very active children, she seldom missed a class. And she was so compelling, we seldom missed her class. She and Don are credited with inventing video training in 1966 using black and white Sony video equipment to teach speech classes. And the techniques they pioneered were and are used far and wide from training elected officials, a gaggle of Catholic deacons, cosmetic industry executives, and even a recalcitrant stripteaser.

In her classroom and her acting and coaching sessions, Joanne was always a trailblazer. I remember when first we met, Joanne smoked. Then when the government reports proved that smoking was dangerous, Joanne stopped smoking, got Don to stop smoking and got many of us to stop smoking.

As only the second woman to Chair a department at Saint Michael's College, Joanne guided the Fine Arts department through its first major challenge, building a home for the department during the three years of design, construction and opening of the McCarthy Fine Arts Center. In 1993 when she retired as a full professor, the alumni of the Saint Michael's Fine Arts Department, spanning over 20 years, came back to pay tribute to Joanne and Don. It was just one year ago that our Fine Arts Family frolicked and played on stage for Don and Joanne—who topped the evening off with what was to become Joanne's last public theatrical performance—a tour de force reading with Don of I'm Herbert.

I was remembered being there with Fine Arts students cheering and clapping for Don and Joanne. We savored these moments.

The last professional chapter of Joanne's life was recently categorized in an editorial in The Burlington Free Press as nothing less than a military campaign, where the foot soldier and the general were one and the same person. In October 1985, Joanne was diagnosed with breast cancer. I remember her call outlining the details, the therapies, the options and her determination to beat this disease.

She turned the frightening realities of hair loss due to chemotherapy into a ravishing new fashion statement—showing up at Donald and Vickie's wedding with a strikingly short silver fox haircut which she dubbed my "Chemo Cut." No, she would not lie down and become a victim. Instead, Joanne rose up and became a survivor, a leader, a champion. I guess when you see your work as prayer, rising up—even in the most dire of circumstances—isn't so unimaginable. For those of us who looked on, we were humbled with awe.

One afternoon during a visit to New York, where Joanne was helping to comfort me through the loss of yet another friend to AIDS, she noticed all the literature about AIDS and spoke about how politically effective AIDS activists were. "And why," she asked, "is there no such movement for women with breast cancer?"

The answer to Joanne became clear. In the absence of any substantive movement, she would just get in there and do it herself. "I was never really politically active," she recalled last month, "but when your own survival depends on activism, you can become a citizen activist very quickly."

Joanne approached breast cancer activism the way she approached everything. And it was not without humor. When asked to perform for a breast cancer fund raiser, she didn't choose some dreary poem. No, she and Don whipped up a hilarious original monologue, A Funny Thing Happened on the Way to Radiation.

When the National Breast Cancer Group decided to send letters of support to Congress, they assigned Vermont the task of obtaining 600 letters. Joanne's response was to obtain nearly 14,000 letters. She galvanized women in Vermont—and in other states—to speak up. "Don't call it the C-word," she would tell people. "It's cancer, and you must/we must be public about it. And force the men who make all the decisions about research money to start giving us our fair share!"

She and Don went to Washington and lobbied Congressman Bernie Sanders and Senator Pat Leahy to co-sponsor the Breast Cancer Registry Bill—so that states like Vermont with small populations, but with high incidents of breast cancer (Vermont ranks 8th in the U.S.) could perhaps find some of the causes. She was as eloquent with the men of power as she had been with Sister Madaleva nearly 30 years earlier. The need for the Breast Cancer Registry Bill became a political fact of life and a reality. And although many others participated, all agreed that Joanne was the prime mover in Vermont—and her work had national ramifications.

On Sunday, the day after Joanne died, I came to the house on Seneca Avenue and found our Senator, Patrick Leahy consoling Don and the kids. He was moved and in tears. He was sincerely fond of Joanne. When he heard of my task today, he made a point of telling me, "Make sure everyone knows that whenever Joanne came to me it was always for other people, it was never favors for her; she was so generous." Work as prayer.

In a book of Cancer Stories that belonged to Joanne, we found a telling phrase she had underlined, "In the great acts of life, we are often alone."

But in the sadness of Joanne's death, she was never really alone. As one who has witnessed many friends die long and protracted passing, I cannot help but observe how extraordinary the care was that Joanne received from so many friends and her family. Truly this is a community of which we can all be proud. And when politicians refer to "family values," it is the good people of Vermont and this community they should hold in their mind's eye as one to be emulated. She received loving care from so many—those in the Cancer Support Group: Jim Schwartz, Liz Russo, Mary Siegler, Bob Tucker, Filicia Carreon and Pat Hanniford; her lifelong buddies, Peggy O'Brien, Pauline Landry and Pierrette Roy; students, friends, and neighbors like the Woodards and L'Ecuyers, and always from Don, and towards the end, Laura. All of these friends and family were there by Joanne's side comforting, administering—their lives now a

common prayer of support, and love helping to ease in the transition as this magnificent flame flickered and then went out.

Joanne died in peace and with dignity. Laura and I were there beside her. She had asked Don to celebrate their achievements by traveling to Manchester to receive their Lifetime Achievement Award from the Vermont Council on the Arts—an award she would never see—but one she savored, for this, like the three awards she received from Saint Michael's was from her peers.

As Laura observed, in the end, Joanne had only one thing left, "boundless love," which she generously shared until her last breath.

Towards the end, Joanne believed that she had not quite done enough, but we knew otherwise. As she had wryly observed in the Free Press, she "brought warring factions together—from all three political parties and the various cancer groups. She even succeeded in getting both U.S. Senators, the U.S. Congressman from Vermont and the Governor and Lt. Governor all on the same platform (a rare feat!) dedicating Mother's Day as a Day of Remembrance for all those Vermont mothers, wives, sisters and friends lost to this epidemic. She was a general who saw the need to remember fallen troops. And now, in May 1995, we will add Joanne's name to this ever growing list of fallen heroines.

If Joanne's death is to have meaning, then I urge all of you to become citizen activists like Joanne. One voice, no matter how timid or strong, can make a difference. If you doubt this, remember Joanne Rathgeb.

She taught us how to live. She showed us how to die with dignity. And even after her death she showed us there was still more to say. At her request, an autopsy was performed. She theorized, "If I'm going to go through this hell, then let's learn something from it." From her life and her death, she has planted the seeds from which knowledge will spring forth. . . and in her way. . . her life, her work, her prayer, will one day become part of the cure for breast cancer.

In another section of the Cancer Story book, Liz Rathgeb Pratt showed me a section underlined by Joanne. "I don't think people are afraid of death. What they are afraid of is the incompleteness of their lives." Joanne Rathgeb lived as complete a life as anyone could hope to live.

So, as we go forth from this house of worship today, where so many chapters of Joanne's life are recorded, we bring with us Joanne in our hearts. Her joy, her triumphs and her love. Remember Joanne's life and work as prayer. For every time we see an injustice and right this wrong, we are remembering and honoring Joanne.

Every time we hear laughter, especially laughter through tears, remember Joanne.

Every time we treat life's chores not as drudgery, but as prayer, you will be remembering Joanne in a way she would love.

Every time we teach a child and see the light of knowledge brightening in their faces, we honor Joanne.

And, every time we honor and love one another, we remember Joanne.

Leave here today not in sadness, nor in sorrow, but in joy, for having been even a small part of the celebration of Joanne Rathgeb's life. Take her with you in your hearts as I will in mine. Do as she asked me to tell you . . . . "Love one another" as she loved all of you.

You may be gone, but for the rest of our days, you will forever be in our hearts and in our prayers.

Good bye, my Darling.

[From the Burlington (VT) Free Press, Nov. 20, 1994]

RATHGEB DIES OF CANCER

(By Susan Kelley)

One of the state's most tenacious breast cancer activists and the matriarch of northern Vermont theater died Saturday morning of the disease.

Joanne Rathgeb, 64, died at 10:15 a.m. Saturday at her home in Essex Junction, after fighting breast cancer for nine years. Her daughter, Laura, and a family friend were by her side.

Rathgeb helped raise awareness of breast cancer and demanded more research into the disease. Vermont has the eighth highest rate of death by breast cancer in the nation.

But Rathgeb and her husband, Donald, also were known as the soul of the St. Michael's Playhouse, the oldest continuously operating Equity theater in the state. They were founders of the theater department at St. Michael's College in Colchester.

"She was my spouse," Don Rathgeb said. "She was also my colleague in teaching. She was my business partner. She was my chief talent on stage, and she was a friend. I have not yet realized what I have lost—although I'm quite sure that having spent 34½ years together, that there will be memories."

Rathgeb is survived by her husband, four children, grandchildren, an older sister and brother, and a large, extended family.

Over the course of Rathgeb's career at St. Michael's College as professor, actor, producer and director, she won awards from Vermont Women in Higher Education; three medallions from the American College Theatre Festival national and regional competitions; and was a fellow at the Vermont Academy of Arts and Sciences. Friday, she and her husband received a lifetime achievement award from the Vermont Council on the Arts. Her family traveled to Manchester to accept the award for her.

Theater critic Ruth Page remembers Rathgeb's talent onstage, especially in comedic roles. Fans still remember her lead role from 14 years ago in "Everybody Loves Opal," in which she played a women who recycled teabags by hanging them on a clothesline.

"Whenever Joanne came onstage, it just brightened up the whole audience," Page said. "When my mom was in her 80s, I used to take her to the Playhouse. Every time Joanne came out in a humorous role, Mother would just crack up."

But Rathgeb was also a talented acting coach, Page said, especially working one-on-one with young actors.

"She didn't order them around. She'd say 'Let's try this,' and kind of show them with body English, and they would comprehend and try."

Rathgeb was born Joanne Ellspermann in Terre Haute, Ind., to a family of German descent. She was educated at parochial schools and showed an early interest in theater.

She earned a bachelor's degree in theater and a master's degree in English from Indiana State University. She also attended St. Mary's of the Woods College and did postgraduate work at Catholic University of America. She taught in the Chicago school systems and helped organize theaters in Terre Haute.

The bright-eyed, pony-tailed actress met her future husband in South Bend, Ind., when she was 28 and touring with the prestigious Catholic University Repertory Company.

Don Rathgeb, who was teaching at St. Mary's of Notre Dame, thought she was "just a phony, sophisticated actress," he has said. But that changed when he saw her working on a stage set, scrunched under an 18-inch level and hammering in a nail.

They drove together to Vermont to work at St. Michael's College in 1958 and were married two years later.

Even while juggling a family of six, teaching, acting and directing. Rathgeb retained her sense of humor.

She said in 1988 that if a movie were made of her life, the title would be "The Dogs are Sticking to the Kitchen Floor."

Rathgeb was diagnosed with breast cancer in 1985. It was an event that propelled her into the arena of breast cancer activism.

As she learned more about the disease, she found that Vermont's breast cancer death rate increased 36 percent between 1980 and 1987. State Health Department figures showed that the rate increased from 27.4 deaths per 100,000 to 34.4 deaths per 100,000.

But no research was being done to find out why Vermont had the eighth-highest death rate in the nation due to breast cancer.

In 1992, she began a statewide registry of cancer victims. She and others convinced Rep. Bernard Sanders, I-Vt., and Sen. Patrick Leahy, D-Vt., to propose that Congress pass the Cancer Registries Act. That legislation set up a uniform system of collecting data on cancer in each state.

She also participated in a letter-writing campaign to collect 2.6 million signatures asking President Clinton to develop a national strategy to end the epidemic.

"She was always in her own way making an incredible impact on the work that's being done, even now. It will live on," said fellow activist Virginia Soffa.

In recent days, Rathgeb's health had deteriorated rapidly. The cancer that had attacked most of her body had crept into her bronchial tubes, restricting breathing and making swallowing impossible.

But her husband, Don, takes solace in having been her primary care-giver for the past two months.

"I'm not sure if it feels like being a quadriplegic, but there's a definite sense of loss."

He and his family were preparing for visitors Saturday afternoon. Funeral arrangements were incomplete Saturday and are being handled by Ready Funeral Home.

COLVILLE RESERVATION CONFEDERATED TRIBES CLAIMS SETTLEMENT

Mr. INOUYE. Mr. President, when the Committee on Indian Affairs and the Committee on Energy and Natural Resources held a joint hearing on August 4, on a bill to provide a settlement of the claims of the Confederated Tribes of the Colville Reservation for the inundation of tribal lands resulting from the construction and operation of Grand Coulee Dam, the committees also received testimony from the Spokane Tribe of Washington, whose lands were similarly affected by the construction and operation of the dam and related hydropower project. The Spokane Tribe was seeking an amendment to S. 2259 that would enable their claims to be addressed.

I believe that Senator BRADLEY, in his capacity as chairman of the Water and Power Subcommittee of the Committee on Energy and Natural Resources, shares my concern that the

Spokane Tribe be accorded equitable treatment by the United States in addressing their claims, which are comparable in so many respects, to those of the Colville Tribes. May I ask my colleague, Senator BRADLEY, for his views on this matter?

Mr. BRADLEY. S. 2259 settles the claims of the Confederated Tribes of the Colville Reservation, yet the claims of the Spokane Tribe which are nearly identical in their substance, remain unsettled. The historic fishing sites and the lands of the two tribes were inundated by the Grand Coulee project. It is clear that hydropower production and water development associated with the project were made possible by the contributions of both tribes. Thus, I believe it is incumbent that the United States address its obligations under the Federal Power Act to both tribes.

Mr. INOUYE. I thank the distinguished Chairman. I would also appreciate knowing the views of the primary sponsor of this measure.

Mrs. MURRAY. Mr. President, I am most grateful that the Committee on Indian Affairs and the Committee on Energy and Natural Resources have acted so expeditiously on S. 2259, the Confederated Tribes of the Colville Reservation Grand Coulee Dam Settlement Act. I want to express my appreciation to both Chairman INOUYE and Chairman BRADLEY for the personal attention they have given to this legislation.

The settlement of the claims of the Colville Tribes is long overdue. The claim, first filed by the Colville Tribes over 40 years ago, is based upon the authority the Congress vested in the Indian Claims Commission, which provided a 5-year period during which Indian tribes could bring their claims against the United States.

Unfortunately, the Spokane Tribe did not organize its government in time to participate in the claims process.

The fair and honorable dealings standard established in the Indian Claims Commission Act should clearly apply to the United States' conduct and relationship with both the Colville and Spokane Tribes. I would urge, in the strongest possible terms, that the Department of the Interior and other relevant Federal agencies enter into negotiations with the Spokane Tribe that might lead to a fair and equitable settlement of the tribe's claims. Do the distinguished chairmen support such action being undertaken?

Mr. INOUYE. I fully support the notion that the United States has a moral obligation to address the claims of the Spokane Tribe, and I would be pleased to join the Senator in a letter to Interior Department Secretary Babbitt urging that negotiations be undertaken by the Department.

Mr. BRADLEY. Under the Federal Water Power Act, which is now referred to as the Federal Power Act, where an Indian tribe's land contributes to power production, the licensee must pay an annual fee to the Indian tribe which represents the tribe's contribution to power production. I too, would be pleased to join Senator MURRAY and Chairman INOUYE in urging the Interior Department and the Bonneville Power Administration to enter into negotiations with the Spokane Tribe to address the tribe's claims.

Mr. MCCAIN. As vice chairman of the Committee on Indian Affairs, I am pleased to join my colleagues in the action we take today to resolve yet another longstanding claim of an Indian tribe against the United States. As Senator BRADLEY has indicated, the Federal Power Act requires compensation to Indian tribes whose lands contribute to power production, and I commend the Bonneville Power Administration for acknowledging and acting upon this obligation. I also want to join my colleagues in urging the Department of the Interior to seize this opportunity to address the Spokane Tribe's comparable and equitable claims for damages arising out of the inundation of their lands for the construction and operation of Grand Coulee Dam.

Mr. HATFIELD. Mr. President, I am glad to see the Senate moving forward today with this important legislation to ratify the settlement regarding the Confederated Tribes of the Colville Reservation and the Grand Coulee Dam project. The settlement reached regarding these claims is very reasonable and represents a true showing of good faith by all parties involved. I am pleased to offer an amendment today to S. 2259 which does not alter the settlement in any manner, but provides for an alternative credit option for the Bonneville Power Administration [BPA] should the BPA privately refinance its debt to the United States and thus not have interest payments to the United States available for deduction. My amendment would not alter the amount of the deduction and has no budgetary effect.

Mr. INOUYE. I thank the distinguished senior Senator from Oregon for his amendment. It is a constructive amendment that will make it unnecessary to revisit this act for amendment should the Bonneville Power Administration refinance its debt to the United States.

Mr. HATFIELD. I thank the chairman for his leadership on this issue, and on so many other issues in the Committee on Indian Affairs during the 103d Congress.

Mr. INOUYE. I thank my good friend from Oregon. I have also proposed an amendment to section 7(a) of S. 2259, which would bring the Senate bill into accord with the companion measure that is presently before the House of Representatives. The amendment is to strike the words "the Federal Government or" on lines 1 and 2 on page 11 of S. 2259, thereby eliminating any reference to Federal taxation.

Mr. BRADLEY. Could the distinguished chairman of the Committee on Indian Affairs explain the amendment in more detail?

Mr. INOUYE. I would be pleased to respond to the Senator's question. In the settlement of an action brought before the Indian Claims Commission, the exemption from Federal taxation of the principal amount and any annual payments to a tribe, including any distribution by a tribe to tribal members, is provided for under existing law, specifically at 25 U.S.C. 1407. This section refers to claims settlements and another section of the United States Code, 25 U.S.C. 117(b) references the exemption from Federal taxation for the distribution of such funds. Accordingly, there is no need to address the Federal taxation of funds authorized for appropriation in S. 2259.

Mr. BRADLEY. I agree that the present law provides the immunity from Federal taxation that the Colville Tribes are seeking and that no specific provision is necessary in this measure. Funds received by the tribes or its members in the settlement of an action against the United States pursuant to the Indian Claims Commission Act should not be and are not subject to Federal taxation, nor are payments made by a tribe to its members from trust funds.

Mrs. MURRAY. Mr. President, I want to thank Senator HATFIELD for his support and participation. I also want to express my support for his amendment. It is very important for the regional ratepayers to have this flexibility. Again, I thank the chairmen for their leadership and support.

Mr. INOUYE. I thank my colleagues for their interest and commitment to the fair and equitable resolution of tribal claims.

IS CONGRESS IRRESPONSIBLE? YOU BE THE JUDGE OF THAT

Mr. HELMS. Mr. President, the incredibly enormous Federal debt is like the weather—everybody talks about it but nobody ever does anything about it.

A lot of politicians talk a good game—when they are back home—about bringing Federal deficits and the Federal debt under control. But just look at how so many of these same politicians regularly vote in support of bloated spending bills that roll through the Senate.

As of Tuesday, November 29, at the close of business, the Federal debt stood—down to the penny—at exactly $4,761,962,482,184.16. This debt, don't forget, was run up by the Congress of the United States.

The Founding Fathers decreed that the big-spending bureaucrats in the executive branch of the U.S. Government

should never be able to spend even a dime unless and until the spending had been authorized and appropriated by the U.S. Congress.

The U.S. Constitution is quite specific about that, as every schoolboy is supposed to know.

And do not be misled by declarations by politicians that the Federal debt was run up by some previous President or another, depending on party affiliation. Sometimes you hear false claims that Ronald Reagan ran it up; sometimes they play hit-and-run with George Bush.

These buck-passing declarations are false, as I said earlier, because the Congress of the United States is the culprit. The Senate and the House of Representatives are the big spenders.

Mr. President, most citizens cannot conceive of a billion of anything, let alone a trillion. It may provide a bit of perspective to bear in mind that a billion seconds ago, Mr. President, the Cuban missile crisis was in progress. A billion minutes ago, the crucifixion of Jesus Christ had occurred not long before.

Which sort of puts it in perspective, does it not, that Congress has run up this incredible Federal debt totaling 4,761 of those billions—of dollars. In other words, the Federal debt, as I said earlier, stood this morning at 4 trillion, 761 billion, 962 million, 482 thousand, 184 dollars and 16 cents. It'll be even greater at closing time today.

A FAREWELL TO CHAPLAIN HALVERSON

Mr. HATFIELD. Mr. President, as this Congress comes to a close this year, my colleagues and I will lose one of our most valued assets, the Senate Chaplain, Dr. Richard C. Halverson. Throughout his tenure in the office of the Chaplain, Dr. Halverson has guided my colleagues and I in our work here, helping us to find the spirit of the Lord within ourselves and to remind us continually of our mission as servants of the pubic. I have called him the most Christ-like man I know; this sentiment has not changed. As he prepares to retire from service this month, I wish to thank him both for myself and on behalf of my colleagues. He leaves here with our warmest wishes for peaceful and fulfilling years ahead.

Columnist Cal Thomas took the opportunity to express his appreciation for the service of Chaplain Halverson in a recent column. I am pleased to have this chance to share his words with my colleagues.

There being no objection, the column was ordered to be printed in the RECORD, as follows:

[From the Washington Times, November 10, 1994]

(By Cal Thomas)

CHAPLAIN'S FAREWELL TO THE SENATE

Among those leaving office at the end of this Congress is a man who lived and worked among senators for the past 14 years—but never played the power "game." He didn't have many of the perks of senators. He drove himself to work in an unspectacular older car. His office was smaller than all the others and, like the man who occupied it, lacked pretension. And yet, according to some who know him best, he has been the most powerful man in Washington.

Richard Christian Halverson, a native of North Dakota, a former chauffeur who went to Hollywood as a young man to become an actor, is retiring as chaplain of the U.S. Senate. A rare man in Washington, . . . Democrats and Republicans, from Ted Kennedy to Jesse Helms. His job description required nothing more of him than to open the Senate each day with prayer, as the Senate has every session since Benjamin Franklin offered the first prayer at the dawn of the new nation. Some of Mr. Halverson's prayers were so meaningful and relevant that portions of a few of them made the evening network newscasts.

Mr. Halverson's prayers were minisermons imploring not only God's blessing on the Senate and its members but imparting words of wisdom that could facilitate reasoned debate and enlightened legislative decisionmaking.

A prayer he delivered on June 23, 1993 was typical "God of our fathers, during the presidential campaign last year, Jesse Jackson reminded us that what is morally wrong cannot be politically right. If we separate morality from politics, we imperil our nation and threaten self-destruction. Imperial Rome was not defeated by an enemy from without; it was destroyed by moral decay from within. Mighty God, over and over again You warned Your people, Israel, that righteousness is essential to national health."

A frequent visitor to the Senate Press Gallery, Mr. Halverson prayed this prayer on Feb. 26, 1992: "Gracious Father, investigative reporting seems epidemic in an election year—its primary objective to defame political candidates. Seeking their own reputation, they destroy another's as they search relentlessly, microscopically for some ancient skeleton in a person's life. Eternal God, help these self-appointed 'vacuum-cleaner journalists' to discover how unproductive and divisive their efforts are."

From the mundane to the profound, Richard Halverson could speak (and pray) about things in meaningful and effective ways. For several decades he has written a biweekly devotional letter called "Perspective" that has affected the thousands who have received it. I once met a man in a coffee shop in Amarillo, Tex, who told me he had never met Mr. Halverson but had read "Perspective" for years, "and it changed my life" That is real power, the power to change the life of a person you have never met.

Dick Halverson has not been a closet chaplain, sitting in his office in the Hart Senate Office Building, waiting for senators to come to him. He has roamed the halls and knows the names of waitresses and custodians as well as those of senators. The countenances of the small and the great (a distinction lost on Mr. Halverson) light up his presence.

Like his famous predecessor, Chaplain Peter Marshall, Richard Halverson has been a true servant of God in a place where His influence is sorely needed. On hearing of Peter Marshall's death, the late Sen. Arthur Vandenburg wrote Mr. Marshall's widow: "To me he was the embodiment of Onward Christian Soldiers. To me he was the personification of purposeful religion . His prayers were eloquent and real. He lived his faith.

The same could be said of Dick Halverson, whose power came not from the electorate, or status, or position, but from God. The new Senate will fill no office of greater or more profound importance.

INTERNATIONAL ANTITRUST ENFORCEMENT ASSISTANCE ACT

The text of the bill (S. 2297) to facilitate obtaining foreign-located antitrust evidence by authorizing the Attorney General of the United States and the Federal Trade Commission to provide, in accordance with antitrust mutual assistance agreements, antitrust evidence to foreign antitrust authorities on a reciprocal basis; and for other purposes, as passed by the Senate on October 7, 1994, is as follows:

S. 2297

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "International Antitrust Enforcement Assistance Act of 1994".

SEC. 2. DISCLOSURE TO A FOREIGN ANTITRUST AUTHORITY OF ANTITRUST EVIDENCE.

In accordance with an antitrust mutual assistance agreement in effect under this Act, subject to section 8, and except as provided in section 5, the Attorney General of the United States and the Federal Trade Commission may provide to a foreign antitrust authority with respect to which such agreement is in effect under this Act, antitrust evidence to assist the foreign antitrust authority—

(1) in determining whether a person has violated or is about to violate any of the foreign antitrust laws administered or enforced by the foreign antitrust authority, or

(2) in enforcing any of such foreign antitrust laws.

SEC. 3. INVESTIGATIONS TO ASSIST A FOREIGN ANTITRUST AUTHORITY IN OBTAINING ANTITRUST EVIDENCE.

(a) REQUEST FOR INVESTIGATIVE ASSISTANCE.—A request by a foreign antitrust authority for investigative assistance under this section shall be made to the Attorney General, who may deny the request in whole or in part. No further action shall be taken under this section with respect to any part of a request that has been denied by the Attorney General.

(b) AUTHORITY TO INVESTIGATE.—In accordance with an antitrust mutual assistance agreement in effect under this Act, subject to section 8, and except as provided in section 5, the Attorney General and the Commission may, using their respective authority to investigate possible violations of the Federal antitrust laws, conduct investigations to obtain antitrust evidence relating to a possible violation of the foreign antitrust laws administered or enforced by the foreign antitrust authority with respect to which such agreement is in effect under this Act, and may provide such antitrust evidence to the foreign antitrust authority, to assist the foreign antitrust authority—

(1) in determining whether a person has violated or is about to violate any of such foreign antitrust laws, or

(2) in enforcing any of such foreign antitrust laws.

(c) SPECIAL SCOPE OF AUTHORITY.—An investigation may be conducted under subsection (b), and antitrust evidence obtained

through such investigation may be provided, without regard to whether the conduct investigated violates any of the Federal antitrust laws.

(d) RIGHTS AND PRIVILEGES PRESERVED.—A person may not be compelled in connection with an investigation under this section to give testimony or a statement, or to produce a document or other thing, in violation of any legally applicable right or privilege.

(e) CONFORMING AMENDMENTS.—

(1) ANTITRUST CIVIL PROCESS ACT.—The Antitrust Civil Process Act (15 U.S.C. 1311 et seq.) is amended—

(A) in section 2—

(i) in subsection (d)—

(I) by striking "or any" and inserting ", any", and

(II) by inserting before the semicolon "or, with respect to the International Antitrust Enforcement Assistance Act of 1994, any of the foreign antitrust laws", and

(ii) by adding at the end the following:

"(k) The term 'foreign antitrust laws' has the meaning given such term in section 12 of the International Antitrust Enforcement Assistance Act of 1994.", and

(B) in the first sentence of section 3(a)—

(i) by inserting "or, with respect to the International Antitrust Enforcement Assistance Act of 1994, an investigation authorized by section 3 of such Act" after "investigation", and

(ii) by inserting "by the United States" after "proceeding".

(2) FEDERAL TRADE COMMISSION ACT.—The Federal Trade Commission Act (15 U.S.C. 41 et seq.) is amended—

(A) in section 6 by inserting after subsection (h) the following:

"(i) With respect to the International Antitrust Enforcement Assistance Act of 1994, to conduct investigations of possible violations of foreign antitrust laws (as defined in section 12 of such Act).";

(B) in section 20(a) by amending paragraph (8) to read as follows:

"(8) The term 'antitrust violation' means—

"(A) any unfair method of competition (within the meaning of section 5(a)(1));

"(B) any violation of the Clayton Act or of any other Federal statute that prohibits, or makes available to the Commission a civil remedy with respect to, any restraint upon or monopolization of interstate or foreign trade or commerce;

"(C) with respect to the International Antitrust Enforcement Assistance Act of 1994, any violation of any of the foreign antitrust laws (as defined in section 12 of such Act) with respect to which a request is made under section 3 of such Act; or

"(D) any activity in preparation for a merger, acquisition, joint venture, or similar transaction, which if consummated, may result in any such unfair method of competition or in any such violation.".

SEC. 4. JURISDICTION OF THE DISTRICT COURTS OF THE UNITED STATES.

(a) AUTHORITY OF THE DISTRICT COURTS.—On the application of the Attorney General made in accordance with an antitrust mutual assistance agreement in effect under this Act, the United States district court for the district in which a person resides, is found, or transacts business may order such person to give testimony or a statement, or to produce a document or other thing, to the Attorney General to assist a foreign antitrust authority with respect to which such agreement is in effect under this Act—

(1) in determining whether a person has violated or is about to violate any of the foreign antitrust laws administered or enforced by the foreign antitrust authority, or

(2) in enforcing any of such foreign antitrust laws.

(b) CONTENTS OF ORDER.—

(1) USE OF APPOINTEE TO RECEIVE EVIDENCE.—(A) An order issued under subsection (a) may direct that testimony or a statement be given, or a document or other thing be produced, to a person who shall be recommended by the Attorney General and appointed by the court.

(B) A person appointed under subparagraph (A) shall have power to administer any necessary oath and to take such testimony or such statement.

(2) PRACTICE AND PROCEDURE.—(A) An order issued under subsection (a) may prescribe the practice and procedure for taking testimony and statements and for producing documents and other things.

(B) Such practice and procedure may be in whole or in part the practice and procedure of the foreign state, or the regional economic integration organization, represented by the foreign antitrust authority with respect to which the Attorney General requests such order.

(C) To the extent such order does not prescribe otherwise, any testimony and statements required to be taken shall be taken, and any documents and other things required to be produced shall be produced, in accordance with the Federal Rules of Civil Procedure.

(c) RIGHTS AND PRIVILEGES PRESERVED.—A person may not be compelled under an order issued under subsection (a) to give testimony or a statement, or to produce a document or other thing, in violation of any legally applicable right or privilege.

(d) VOLUNTARY CONDUCT.—This section does not preclude a person in the United States from voluntarily giving testimony or a statement, or producing a document or other thing, in any manner acceptable to such person for use in an investigation by a foreign antitrust authority.

SEC. 5. LIMITATIONS ON AUTHORITY.

Sections 2, 3, and 4 shall not apply with respect to the following antitrust evidence:

(1) Antitrust evidence that is received by the Attorney General or the Commission under section 7A of the Clayton Act (15 U.S.C. 18a), as added by title II of the Hart-Scott-Rodino Antitrust Improvements Act of 1976. Nothing in this paragraph shall affect the ability of the Attorney General or the Commission to disclose to a foreign antitrust authority antitrust evidence that is obtained otherwise than under such section 7A.

(2) Antitrust evidence that is matter occurring before a grand jury and with respect to which disclosure is prevented by Federal law, except that for the purpose of applying Rule 6(e)(3)(C)(iv) of the Federal Rules of Criminal Procedure with respect to this section—

(A) a foreign antitrust authority with respect to which a particularized need for such antitrust evidence is shown shall be considered to be an appropriate official of any of the several States, and

(B) a foreign antitrust law administered or enforced by the foreign antitrust authority shall be considered to be a State criminal law.

(3) Antitrust evidence that is specifically authorized under criteria established by Executive Order 12356, or any successor to such order, to be kept secret in the interest of national defense or foreign policy, and—

(A) that is classified pursuant to such order or such successor, or

(B) with respect to which a determination of classification is pending under such order or such successor.

(4) Antitrust evidence that is classified under section 142 of the Atomic Energy Act of 1954 (42 U.S.C. 2162).

SEC. 6. EXCEPTION TO CERTAIN DISCLOSURE RESTRICTIONS.

Section 4 of the Antitrust Civil Process Act (15 U.S.C. 1313), and sections 6(f) and 21 of the Federal Trade Commission Act (15 U.S.C. 46, 57b–2), shall not apply to prevent the Attorney General or the Commission from providing to a foreign antitrust authority antitrust evidence in accordance with an antitrust mutual assistance agreement in effect under this Act and in accordance with the other requirements of this Act.

SEC. 7. PUBLICATION REQUIREMENTS APPLICABLE TO ANTITRUST MUTUAL ASSISTANCE AGREEMENTS.

(a) PUBLICATION OF PROPOSED ANTITRUST MUTUAL ASSISTANCE AGREEMENTS.—Not less than 45 days before an antitrust mutual assistance agreement is entered into, the Attorney General, with the concurrence of the Commission, shall publish in the Federal Register—

(1) the proposed text of such agreement and any modification to such proposed text, and

(2) a request for public comment with respect to such text or such modification, as the case may be.

(b) PUBLICATION OF PROPOSED AMENDMENTS TO ANTITRUST MUTUAL ASSISTANCE AGREEMENTS IN EFFECT.—Not less than 45 days before an agreement is entered into that makes an amendment to an antitrust mutual assistance agreement, the Attorney General, with the concurrence of the Commission, shall publish in the Federal Register—

(1) the proposed text of such amendment, and

(2) a request for public comment with respect to such amendment.

(c) PUBLICATION OF ANTITRUST MUTUAL ASSISTANCE AGREEMENTS, AMENDMENTS, AND TERMINATIONS.—Not later than 45 days after an antitrust mutual assistance agreement is entered into or terminated, or an agreement that makes an amendment to an antitrust mutual assistance agreement is entered into, the Attorney General, with the concurrence of the Commission, shall publish in the Federal Register—

(1) the text of the antitrust mutual assistance agreement or amendment, or the terms of the termination, as the case may be, and

(2) in the case of an agreement that makes an amendment to an antitrust mutual assistance agreement, a notice containing—

(A) citations to the locations in the Federal Register at which the text of the antitrust mutual assistance agreement that is so amended, and of any previous amendments to such agreement, are published, and

(B) a description of the manner in which a copy of the antitrust mutual assistance agreement, as so amended, may be obtained from the Attorney General and the Commission.

(d) CONDITION FOR VALIDITY.—An antitrust mutual assistance agreement, or an agreement that makes an amendment to an antitrust mutual assistance agreement, with respect to which publication does not occur in accordance with subsections (a), (b), and (c) shall not be considered to be in effect under this Act.

SEC. 8. CONDITIONS ON USE OF ANTITRUST MUTUAL ASSISTANCE AGREEMENTS.

(a) DETERMINATIONS.—Neither the Attorney General nor the Commission may conduct an investigation under section 3, apply for an order under section 4, or provide antitrust evidence to a foreign antitrust authority under an antitrust mutual assistance

agreement, unless the Attorney General or the Commission, as the case may be, determines in the particular instance in which the investigation, application, or antitrust evidence is requested that—

(1) the foreign antitrust authority—

(A) will satisfy the assurances, terms, and conditions described in subparagraphs (A), (B), and (E) of section 12(2), and

(B) is capable of complying with and will comply with the confidentiality requirements applicable under such agreement to the requested antitrust evidence,

(2) providing the requested antitrust evidence will not violate section 5, and

(3) conducting such investigation, applying for such order, or providing the requested antitrust evidence, as the case may be, is consistent with the public interest of the United States, taking into consideration, among other factors, whether the foreign state or regional economic integration organization represented by the foreign antitrust authority holds any proprietary interest that could benefit or otherwise be affected by such investigation, by the granting of such order, or by the provision of such antitrust evidence.

(b) LIMITATION ON DISCLOSURE OF CERTAIN ANTITRUST EVIDENCE.—Neither the Attorney General nor the Commission may disclose in violation of an antitrust mutual assistance agreement any antitrust evidence received under such agreement, except that such agreement may not prevent the disclosure of such antitrust evidence to a defendant in an action or proceeding brought by the Attorney General or the Commission for a violation of any of the Federal laws if such disclosure would otherwise be required by Federal law.

(c) REQUIRED DISCLOSURE OF NOTICE RECEIVED.—If the Attorney General or the Commission receives a notice described in section 12(2)(H), the Attorney General or the Commission, as the case may be, shall transmit such notice to the person that provided the evidence with respect to which such notice is received.

SEC. 9. LIMITATIONS ON JUDICIAL REVIEW.

(a) DETERMINATIONS.—Determinations made under paragraphs (1) and (3) of section 8(a) shall not be subject to judicial review.

(b) CITATIONS TO AND DESCRIPTIONS OF CONFIDENTIALITY LAWS.—Whether an antitrust mutual assistance agreement satisfies section 12(2)(C) shall not be subject to judicial review.

(c) RULES OF CONSTRUCTION.—

(1) ADMINISTRATIVE PROCEDURE ACT.—The requirements in section 7 with respect to publication and request for public comment shall not be construed to create any availability of judicial review under chapter 7 of title 5 of the United States Code.

(2) LAWS REFERENCED IN SECTION 5.—Nothing in this section shall be construed to affect the availability of judicial review under laws referred to in section 5.

SEC. 10. PRESERVATION OF EXISTING AUTHORITY.

(a) IN GENERAL.—The authority provided by this Act is in addition to, and not in lieu of, any other authority vested in the Attorney General, the Commission, or any other officer of the United States.

(b) ATTORNEY GENERAL AND COMMISSION.—This Act shall not be construed to modify or affect the allocation of responsibility between the Attorney General and the Commission for the enforcement of the Federal antitrust laws.

SEC. 11. REPORT TO THE CONGRESS.

In the 30-day period beginning 3 years after the date of the enactment of this Act and with the concurrence of the Commission, the Attorney General shall submit, to the Speaker of the House of Representatives and the President pro tempore of the Senate, a report—

(1) describing how the operation of this Act has affected the enforcement of the Federal antitrust laws,

(2) describing the extent to which foreign antitrust authorities have complied with the confidentiality requirements applicable under antitrust mutual assistance agreements in effect under this Act,

(3) specifying separately the identities of the foreign states, regional economic integration organizations, and foreign antitrust authorities that have entered into such agreements and the identities of the foreign antitrust authorities with respect to which such foreign states and such organizations have entered into such agreements,

(4) specifying the identity of each foreign state, and each regional economic integration organization, that has in effect a law similar to this Act,

(5) giving the approximate number of requests made by the Attorney General and the Commission under such agreements to foreign antitrust authorities for antitrust investigations and for antitrust evidence,

(6) giving the approximate number of requests made by foreign antitrust authorities under such agreements to the Attorney General and the Commission for investigations under section 3, for orders under section 4, and for antitrust evidence, and

(7) describing any significant problems or concerns of which the Attorney General is aware with respect to the operation of this Act.

SEC. 12. DEFINITIONS.

For purposes of this Act:

(1) The term "antitrust evidence" means information, testimony, statements, documents, or other things that are obtained in anticipation of, or during the course of, an investigation or proceeding under any of the Federal antitrust laws or any of the foreign antitrust laws.

(2) The term "antitrust mutual assistance agreement" means a written agreement, or written memorandum of understanding, that is entered into by the United States and a foreign state or regional economic integration organization (with respect to the foreign antitrust authorities of such foreign state or such organization, and such other governmental entities of such foreign state or such organization as the Attorney General and the Commission jointly determine may be necessary in order to provide the assistance described in subparagraph (A)), or jointly by the Attorney General and the Commission and a foreign antitrust authority, for the purpose of conducting investigations under section 3, applying for orders under section 4, or providing antitrust evidence, on a reciprocal basis and that includes the following:

(A) An assurance that the foreign antitrust authority will provide to the Attorney General and the Commission assistance that is comparable in scope to the assistance the Attorney General and the Commission provide under such agreement or such memorandum.

(B) An assurance that the foreign antitrust authority is subject to laws and procedures that are adequate to maintain securely the confidentiality of antitrust evidence that may be received under section 2, 3, or 4 and will give protection to antitrust evidence received under such section that is not less than the protection provided under the laws of the United States to such antitrust evidence.

(C) Citations to and brief descriptions of the laws of the United States, and the laws of the foreign state or regional economic integration organization represented by the foreign antitrust authority, that protect the confidentiality of antitrust evidence that may be provided under such agreement or such memorandum. Such citations and such descriptions shall include the enforcement mechanisms and penalties applicable under such laws and, with respect to a regional economic integration organization, the applicability of such laws, enforcement mechanisms, and penalties to the foreign states composing such organization.

(D) Citations to the Federal antitrust laws, and the foreign antitrust laws, with respect to which such agreement or such memorandum applies.

(E) Terms and conditions that specifically require using, disclosing, or permitting the use or disclosure of, antitrust evidence received under such agreement or such memorandum only—

(i) for the purpose of administering or enforcing the foreign antitrust laws involved, or

(ii) with respect to a specified disclosure or use requested by a foreign antitrust authority and essential to a significant law enforcement objective, in accordance with the prior written consent that the Attorney General or the Commission, as the case may be, gives after—

(I) determining that such antitrust evidence is not otherwise readily available with respect to such objective,

(II) making the determinations described in paragraphs (2) and (3) of section 8(a), with respect to such disclosure or use, and

(III) making the determinations applicable to a foreign antitrust authority under section 8(a)(1) (other than the determination regarding the assurance described in subparagraph (A) of this paragraph), with respect to each additional governmental entity, if any, to be provided such antitrust evidence in the course of such disclosure or use, after having received adequate written assurances applicable to each such governmental entity.

(F) An assurance that antitrust evidence received under section 2, 3, or 4 from the Attorney General or the Commission, and all copies of such evidence, in the possession or control of the foreign antitrust authority will be returned to the Attorney General or the Commission, respectively, at the conclusion of the foreign investigation or proceeding with respect to which such evidence was so received.

(G) Terms and conditions that specifically provide that such agreement or such memorandum will be terminated if—

(i) the confidentiality required under such agreement or such memorandum is violated with respect to antitrust evidence, and

(ii) adequate action is not taken both to minimize any harm resulting from the violation and to ensure that the confidentiality required under such agreement or such memorandum is not violated again.

(H) Terms and conditions that specifically provide that if the confidentiality required under such agreement or such memorandum is violated with respect to antitrust evidence, notice of the violation will be given—

(i) by the foreign antitrust authority promptly to the Attorney General or the Commission with respect to antitrust evidence provided by the Attorney General or the Commission, respectively, and

(ii) by the Attorney General or the Commission to the person (if any) that provided

such evidence to the Attorney General or the Commission.

(3) The term "Attorney General" means the Attorney General of the United States.

(4) The term "Commission" means the Federal Trade Commission.

(5) The term "Federal antitrust laws" has the meaning given the term "antitrust laws" in subsection (a) of the first section of the Clayton Act (15 U.S.C. 12(a)) but also includes section 5 of the Federal Trade Commission Act (15 U.S.C. 45) to the extent that such section 5 applies to unfair methods of competition.

(6) The term "foreign antitrust authority" means a governmental entity of a foreign state or of a regional economic integration organization that is vested by such state or such organization with authority to enforce the foreign antitrust laws of such state or such organization.

(7) The term "foreign antitrust laws" means the laws of a foreign state, or of a regional economic integration organization, that are substantially similar to any of the Federal antitrust laws and that prohibit conduct similar to conduct prohibited under the Federal antitrust laws.

(8) The term "person" has the meaning given such term in subsection (a) of the first section of the Clayton Act (15 U.S.C. 12(a)).

(9) The term "regional economic integration organization" means an organization that is constituted by, and composed of, foreign states, and on which such foreign states have conferred sovereign authority to make decisions that are binding on such foreign states, and that are directly applicable to and binding on persons within such foreign states, including the decisions with respect to—

(A) administering or enforcing the foreign antitrust laws of such organization, and

(B) prohibiting and regulating disclosure of information that is obtained by such organization in the course of administering or enforcing such laws.

SEC. 13. AUTHORITY TO RECEIVE REIMBURSEMENT.

The Attorney General and the Commission are authorized to receive from a foreign antitrust authority, or from the foreign state or regional economic integration organization represented by such foreign antitrust authority, reimbursement for the costs incurred by the Attorney General or the Commission, respectively, in conducting an investigation under section 3 requested by such foreign antitrust authority, applying for an order under section 4 to assist such foreign antitrust authority, or providing antitrust evidence to such foreign antitrust authority under an antitrust mutual assistance agreement in effect under this Act with respect to such foreign antitrust authority.

NATIONAL WOMEN AND GIRLS IN SPORTS DAY

The text of the joint resolution (S.J. Res. 186) to designate February 2, 1995, and February 1, 1996, as "National Women and Girls in Sports Day," as passed by the Senate on October 7, 1994, is as follows:

S.J. RES. 186

Whereas women's athletics are one of the most effective avenues available for women of the United States to develop self-discipline, initiative, confidence, and leadership skills;

Whereas sports and fitness activities contribute to emotional and physical well-being;

Whereas women need strong bodies as well as strong minds;

Whereas the history of women in sports is rich and long, but there has been little national recognition of the significance of women's athletic achievements;

Whereas the number of women in leadership positions as coaches, officials, and administrators has declined drastically since the passage of title IX of the Education Amendments of 1972;

Whereas there is a need to restore women to leadership positions in athletics to ensure a fair representation of the abilities of women and to provide role models for young female athletes;

Whereas the bonds built between women through athletics help to break down the social barriers of racism and prejudice;

Whereas the communication and cooperation skills learned through athletic experience play a key role in the contributions of an athlete at home, at work, and to society;

Whereas women's athletics has produced such winners as Flo Hyman, whose spirit, talent, and accomplishments distinguished her above others and who exhibited the true meaning of fairness, determination, and team play;

Whereas parents feel that sports are equally important for boys and girls and that sports and fitness activities provide important benefits to girls who participate;

Whereas early motor-skill training and enjoyable experiences of physical activity strongly influence life-long habits of physical fitness;

Whereas the performances of female athletes in the Olympic Games are a source of inspiration and pride to the United States;

Whereas the athletic opportunities for male students at the collegiate and high school levels remain significantly greater than those for female students; and

Whereas the number of funded research projects focusing on the specific needs of women athletes is limited and the information provided by these projects is imperative to the health and performance of future women athletes: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That—

(1) February 2, 1995, and February 1, 1996, are each designated as "National Women and Girls in Sports Day"; and

(2) the President is authorized and requested to issue a proclamation calling on local and State jurisdictions, appropriate Federal agencies, and the people of the United States to observe those days with appropriate ceremonies and activities.

RELIGIOUS FREEDOM ACT

The text of the joint resolution (S.J. Res. 218) designating January 16, 1995, as "Religious Freedom Day," as passed by the Senate on October 7, 1994, is as follows:

S.J. RES. 218

Whereas December 15, 1991, is the 200th anniversary of the completion of the ratification of the Bill of Rights;

Whereas the first amendment to the Constitution of the United States guarantees religious liberty to the people of the United States;

Whereas millions of people from all parts of the world have come to the United States fleeing religious persecution and seeking to worship;

Whereas in 1777 Thomas Jefferson wrote the bill entitled "A Bill for Establishing Religious Freedom in Virginia" to guarantee freedom of conscience and separation of church and state;

Whereas in 1786, through the devotion of Virginians such as George Mason and James Madison, the General Assembly of Virginia passed such bill;

Whereas the Statute of Virginia for Religious Freedom inspired and shaped the guarantee of religious freedom in the first amendment;

Whereas the Supreme Court of the United States has recognized repeatedly that the Statute of Virginia for Religious Freedom was an important influence in the development of the Bill of Rights;

Whereas scholars across the United States have proclaimed the vital importance of such statute and leaders in fields such as law and religion have devoted time, energy and resources to celebrating its contribution to international freedom; and

Whereas America's First Freedom Center, located in Richmond, Virginia, plans a permanent monument to the Statute of Religious Freedom, accompanied by educational programs and commemorative activities for visitors from around the world: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That January 16, 1995, is designated as "Religious Freedom Day," and the President is authorized and requested to issue a proclamation calling on the people of the United States to join together to celebrate their religious freedom and to observe the day with appropriate ceremonies and activities.

NATIONAL BURN AWARENESS WEEK

The text of the joint resolution (S.J. Res. 225) to designate February 5, 1995, through February 11, 1995, and February 4, 1996, through February 10, 1996, as "National Burn Awareness Week," as passed by the Senate on October 7, 1994, is as follows:

S.J. RES. 225

Whereas the problem of burn injuries and death in the United States is one of the worst of any industrialized nation in the world;

Whereas burn injuries are one of the leading causes of accidental death in the United States;

Whereas every year over 2,000,000 people in the United States are victims of some form of burn injury, and children account for between ⅓ and ½ of this total;

Whereas of the number of people injured by burns, over 70,000 are hospitalized, resulting in 9,000,000 disability days and $100,000,000 in costs annually;

Whereas over 6,000 people die from burn injuries annually, and the rehabilitative and psychological impact of burns is devastating;

Whereas young children are in the highest risk group suffering from hot liquid burns and injuries caused by child fire play and fire setting;

Whereas older adults and the disabled are also at great risk and extremely susceptible to burn injuries;

Whereas burn survivors often face years of costly reconstructive surgery and extensive physical and psychological rehabilitation in overcoming disabilities and fears of rejection by family members, friends, coworkers, schoolmates, and the general public;

Whereas it is estimated that approximately 75 percent of all burn injuries and deaths could be prevented by a comprehensive national educational and awareness campaign and by changes in the design and technology of homes and consumer products;

Whereas general public awareness of the need for smoke detectors and home fire escape plans, in combination with an understanding of the risk associated with items in the home environment, can cause a reduction of injuries and loss of life; and

Whereas there is a need for an effective national problem that deals with all aspects of burn injuries and burn prevention: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the weeks of February 5, 1995, through February 11, 1995, and February 4, 1996, through February 10, 1996, are each designated as "National Burn Awareness Week". The President is authorized and requested to issue a proclamation calling on the people of the United States and all Federal, State, and local governments officials to observe the weeks with appropriate programs and activities.

MERCY OTIS WARREN DAY

The text of the joint resolution (S.J. Res. 222) to designate October 19, 1994, as "Mercy Otis Warren Day," and for other purposes, as passed by the Senate on October 7, 1994, is as follows:

S.J. RES. 222

Whereas Mercy Otis Warren was born on September 14, 1728, in Barnstable, Massachusetts, was 1 of 13 children, and was without a formal education, yet her thirst for knowledge and ardent interest in politics transformed her into 1 of the prominent political thinkers and commentators of her day;

Whereas Mercy Otis Warren maintained throughout her life an aggressive concern for public affairs and the role of women in society, and was determined that women should not be restricted to domestic interests;

Whereas Mercy Otis Warren wrote numerous published works providing commentary on the leading political figures of the American Revolution and on the political viewpoints of her day, including a major literary work, the 3-volume "History of the Rise, Progress, and Termination of the American Revolution", completed in 1805;

Whereas Mercy Otis Warren was so well respected by her contemporaries for her understanding of political issues that her advice was sought by such notables as John Adams, Samuel Adams, and Thomas Jefferson;

Whereas Mercy Otis Warren wrote a 19-page pamphlet, published in 1788, entitled "Observations on the New Constitution", that contributed to the political movement that provided a foundation for the Bill of Rights; and

Whereas Mercy Otis Warren is recognized by American historians as a poet, a patriot, and a historian of the American Revolution: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That October 19, 1994, is designated as "Mercy Otis Warren Day". The President is authorized and requested to issue a proclamation calling on the people of the United States to observe this day with appropriate ceremonies and activities.

COMMENDING THE U.S. RICE INDUSTRY

The text of the joint resolution (S.J. Res. 219) to commend the United States rice industry, and for other purposes, as passed by the Senate on October 7, 1994, is as follows:

S.J. RES. 219

Whereas the rice industry is a good and valuable part of the United States economy;

Whereas it is estimated that rice production, milling, and marketing and rice-related commerce provide over 100,000 jobs in the United States economy;

Whereas the rice industry helps to generate a positive balance of agricultural trade for the United States economy;

Whereas the rice industry generates over $3,000,000,000 in annual commerce for the United States economy;

Whereas rice is a popular food in the United States, with consumption increasing 3 to 5 percent annually;

Whereas rice producers have made major efforts to protect waterfowl habitat, and rice production can be managed to protect water quality in an environmentally sound manner;

Whereas the rice industry produces an important food used in the worldwide humanitarian assistance program of the United States Government;

Whereas competition for foreign rice markets is ever increasing;

Whereas, to be competitive, the United States rice industry must implement and maintain a comprehensive research and product market development program;

Whereas, to be competitive, the United States rice industry must use its resources efficiently and effectively;

Whereas a strong unified voice is a valuable and productive asset for any United States industry but especially for a comparatively small industry like rice; and

Whereas the United States rice industry, fully recognizing modern resource and market and other economic and environmental challenges, has voluntarily and collectively developed a plan for, and agreed to establish, an industry organization to best determine and accomplish its goals: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the United States rice industry is to be commended for its decision to establish an industry organization, and the President is authorized and requested to issue a proclamation commending the decision and recognizing the success that the decision will have in promoting the common interests of the rice industry, as well as the interests of the rice-consuming public.

PROHIBITING THE DUPLICATION OF BENEFITS

The text of the bill (S. 2551) to prohibit the duplication of benefits, as passed by the Senate on October 7, 1994, is as follows:

S. 2551

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the 1994 disaster assistance provision as contained in the Agriculture Rural Development, Food and Drug Administration, and Related Agencies Act, 1995, is amended by adding at the end the following new paragraph:

"(10) LIMITATION ON DISASTER PAYMENTS.—The Secretary shall adjust the amount of disaster payments made to a producer for a crop of peanuts to ensure that the total amount of quota poundage for which such payments are made to the producer plus the amount of quota poundage produced and marketed by the producer does not exceed the effective poundage quota for the farm of the producer for that crop. Disaster payments to a producer on poundage quota in excess of the effective quota for the farm of the producer shall be made based on the additional poundage payment rate.".

MENTAL HEALTH AND SUBSTANCE ABUSE PROGRAMS REAUTHORIZATION

The text of the bill (S. 2352) to amend the Public Health Service Act to reauthorize certain programs relating to the Substance Abuse and Mental Health Services Administration, and for other purposes, as passed by the Senate on October 7, 1994, is as follows:

S. 2352

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. FAILURE TO COMPLY WITH MAINTENANCE OF EFFORT PROVISIONS.

(1) MENTAL HEALTH.—Section 1915(b)(3)(A) of the Public Health Service Act (42 U.S.C. 300x–4(b)(3)(A)) is amended—

(1) by striking "material"; and

(2) by inserting before the period at the end thereof the following: ", except that the Secretary may defer the reduction for a reasonable period of time, but in no event to exceed 1 year, to afford the State an opportunity to correct or mitigate the violation of the agreement that the State made for the preceding year under paragraph (1), and the Secretary shall recalculate the reduction accordingly".

(b) SUBSTANCE ABUSE.—Section 1930(c)(1) of the Public Health Service Act (42 U.S.C. 300x–30(c)(1)) is amended—

(1) by striking "material"; and

(2) by inserting before the period at the end thereof the following: ", except that the Secretary may defer the reduction for a reasonable period of time, but in no event to exceed 1 year, to afford the State an opportunity to correct or mitigate the violation of the agreement that the State made for the preceding year under subsection (a), and the Secretary shall recalculate the reduction accordingly".

SEC. 2. BLOCK GRANTS TO STATES REGARDING MENTAL HEALTH AND SUBSTANCE ABUSE.

Section 205(b) of the ADAMHA Reorganization Act (42 U.S.C. 300x(b) note) is amended—

(1) by redesignating paragraph (3) as paragraph (4); and

(2) by inserting after paragraph (2), the following new paragraph:

"(3) FISCAL YEAR 1995.—With respect to an allotment for fiscal year 1995 under section 1911 or 1921, the Secretary shall, upon the request of the chief executive officer of a State, make a transfer as described under paragraph (1) or (2) in the case of any State for which such an allotment for fiscal year 1995 is—

"(A) in the case of an allotment under section 1911, at least 20 percent less than the amount of the allotment for such State under such section for fiscal year 1994; or

"(B) in the case of an allotment under section 1921, at least 20 percent less than the

amount of the allotment for such State under such section for fiscal year 1994.".

SEC. 3. PREVENTION AND TREATMENT GRANTS.

Section 1924(b)(2) of the Public Health Service Act (42 U.S.C. 300x-24(b)(2)) is amended by striking "10 or more" and inserting "15 or more".

SEC. 4. EFFECTIVE DATE.

This Act shall take effect as if enacted on September 30, 1994.

LEGAL TELECOMMUNICATIONS INTERCEPTION

The text of the bill (S. 2375) to amend title 18, United States Code, to make clear a telecommunications carrier's duty to cooperate in the interception of communications for law enforcement purposes, and for other purposes, as passed by the Senate on October 7, 1994, is as follows:

S. 2375

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. INTERCEPTION OF DIGITAL AND OTHER COMMUNICATIONS.

(a) IN GENERAL.—Part I of title 18, United States Code, is amended by inserting after chapter 119 the following new chapter:

"CHAPTER 120—TELECOMMUNICATIONS CARRIER ASSISTANCE TO THE GOVERNMENT

"§ 2601. Definitions

"(a) DEFINITIONS.—In this chapter—

"the terms defined in section 2510 have, respectively, the meanings stated in that section.

"'call-identifying information'—

"(A) means all dialing or signaling information that identifies the origin, direction, destination, or termination of each communication generated or received by the subscriber equipment, facility, or service of a telecommunications carrier that is the subject of a court order or lawful authorization; but

"(B) does not include any information that may disclose the physical location of the subscriber (except to the extent that the location may be determined from the telephone number).

"'Commission' means the Federal Communications Commission.

"'government' means the government of the United States and any agency or instrumentality thereof, the District of Columbia, any commonwealth, territory, or possession of the United States, and any State or political subdivision thereof authorized by law to conduct electronic surveillance.

"'information services'—

"(A) means the offering of a capability for generating, acquiring, storing, transforming, processing, retrieving, utilizing, or making available information via telecommunications; and

"(B) includes electronic publishing and electronic messaging services; but

"(C) does not include any capability for a telecommunications carrier's internal management, control, or operation of its telecommunications network.

"telecommunications support services" means a product, software, or service used by a telecommunications carrier for the internal signaling or switching functions of its telecommunications network.

"'telecommunications carrier'—

"(A) means a person or entity engaged in the transmission or switching of wire or electronic communications as a common carrier for hire (within the meaning of section 3(h) of the Communications Act of 1934 (47 U.S.C. 153(h)));

"(B) includes—

"(i) a person or entity engaged in providing commercial mobile service (as defined in section 332(d) of the Communications Act of 1934 (47 U.S.C. 332(d))); or

"(ii) a person or entity engaged in providing wire or electronic communication switching or transmission service to the extent that the Commission finds that such service is a replacement for a substantial portion of the local telephone exchange service and that it is in the public interest to deem such a person or entity to be a telecommunications carrier for purposes of this chapter; but

"(C) does not include persons or entities insofar as they are engaged in providing information services.

"§ 2602. Assistance capability requirements

"(a) CAPABILITY REQUIREMENTS.—Except as provided in subsections (b), (c), and (d) of this section, and subject to section 2607(c), a telecommunications carrier shall ensure that its services or facilities that provide a customer or subscriber with the ability to originate, terminate, or direct communications are capable of—

"(1) expeditiously isolating and enabling the government to intercept, to the exclusion of any other communications, all wire and electronic communications carried by the carrier within a service area to or from equipment, facilities, or services of a subscriber of such carrier concurrently with their transmission to or from the subscriber's service, facility, or equipment or at such later time as may be acceptable to the government;

"(2) expeditiously isolating and enabling the government to access call-identifying information that is reasonably available to the carrier—

"(A) before, during, or immediately after the transmission of a wire or electronic communication (or at such later time as may be acceptable to the government); and

"(B) in a manner that allows it to be associated with the communication to which it pertains,

except that, with regard to information acquired solely pursuant to the authority for pen registers and trap and trace devices (as defined in section 3127), such call-identifying information shall not include any information that may disclose the physical location of the subscriber (except to the extent that the location may be determined from the telephone number);

"(3) delivering intercepted communications and call-identifying information to the government in a format such that they may be transmitted by means of facilities or services procured by the government to a location other than the premises of the carrier; and

"(4) facilitating authorized communications interceptions and access to call-identifying information unobtrusively and with a minimum of interference with any subscriber's telecommunications service and in a manner that protects—

"(A) the privacy and security of communications and call-identifying information not authorized to be intercepted; and

"(B) information regarding the government's interception of communications and access to call-identifying information.

"(b) LIMITATIONS.—

"(1) DESIGN OF FEATURES AND SYSTEMS CONFIGURATIONS.—This chapter does not authorize any law enforcement agency or officer—

"(A) to require any specific design of features or system configurations to be adopted by providers of wire or electronic communication service, manufacturers of telecommunications equipment, or providers of telecommunications support services; or

"(B) to prohibit the adoption of any feature or service by providers of wire or electronic communication service, manufacturers of telecommunications equipment, or providers of telecommunications support services.

"(2) INFORMATION SERVICES; PRIVATE NETWORKS AND INTERCONNECTION SERVICES AND FACILITIES.—The requirements of subsection (a) do not apply to—

"(A) information services; or

"(B) services or facilities that support the transport or switching of communications for private networks or for the sole purpose of interconnecting telecommunications carriers.

"(3) ENCRYPTION.—A telecommunications carrier shall not be responsible for decrypting, or ensuring the government's ability to decrypt, any communication encrypted by a subscriber or customer, unless the encryption was provided by the carrier and the carrier possesses the information necessary to decrypt the communication.

"(c) EMERGENCY OR EXIGENT CIRCUMSTANCES.—In emergency or exigent circumstances (including those described in sections 2518 (7) or (11)(b) and 3125 of this title and section 1805(e) of title 50), a carrier at its discretion may fulfill its responsibilities under subsection (a)(3) by allowing monitoring at its premises if that is the only means of accomplishing the interception or access.

"(d) MOBILE SERVICE ASSISTANCE REQUIREMENTS.—A telecommunications carrier offering a feature or service that allows subscribers to redirect, hand off, or assign their wire or electronic communications to another service area or another service provider or to utilize facilities in another service area or of another service provider shall ensure that, when the carrier that had been providing assistance for the interception of wire or electronic communications or access to call-identifying information pursuant to a court order or lawful authorization no longer has access to the content of such communications or call-identifying information within the service area in which interception has been occurring as a result of the subscriber's use of such a feature or service, information is made available to the government (before, during, or immediately after the transfer of such communications) identifying the provider of wire or electronic communication service that has acquired access to the communications.

"§ 2603. Notices of capacity requirements

"(a) NOTICES OF MAXIMUM AND ACTUAL CAPACITY REQUIREMENTS.—

"(1) IN GENERAL.—Not later than 1 year after the date of enactment of this chapter, after consulting with State and local law enforcement agencies, telecommunications carriers, providers of telecommunications support services, and manufacturers of telecommunications equipment and after notice and comment, the Attorney General shall publish in the Federal Register and provide to appropriate telecommunications carrier associations, standard-setting organizations, and for a—

"(A) notice of the maximum capacity required to accommodate all of the communication interceptions, pen registers, and trap and trace devices that the Attorney General estimates that government agencies authorized to conduct electronic surveillance may conduct and use simultaneously; and

"(B) notice of the number of communication interceptions, pen registers, and trap and trace devices, representing a portion of the maximum capacity set forth under subparagraph (A), that the Attorney General estimates that government agencies authorized to conduct electronic surveillance may conduct and use simultaneously after the date that is 4 years after the date of enactment of this chapter.

"(2) BASIS OF NOTICES.—The notices issued under paragraph (1) may be based upon the type of equipment, type of service, number of subscribers, geographic location, or other measure.

"(b) COMPLIANCE WITH CAPACITY NOTICES.—

"(1) INITIAL CAPACITY.—Within 3 years after the publication by the Attorney General of a notice of capacity requirements or within 4 years after the date of enactment of this chapter, whichever is longer, a telecommunications carrier shall ensure that its systems are capable of—

"(A) expanding to the maximum capacity set forth in the notice under subsection (a)(1)(A); and

"(B) accommodating simultaneously the number of interceptions, pen registers, and trap and trace devices set forth in the notice under subsection (a)(1)(B).

"(2) EXPANSION TO MAXIMUM CAPACITY.—After the date described in paragraph (1), a telecommunications carrier shall ensure that it can accommodate expeditiously any increase in the number of communication interceptions, pen registers, and trap and trace devices that authorized agencies may seek to conduct and use, up to the maximum capacity requirement set forth in the notice under subsection (a)(1)(A).

"(c) NOTICES OF INCREASED MAXIMUM CAPACITY REQUIREMENTS.—

"(1) The Attorney General shall periodically provide to telecommunications carriers written notice of any necessary increases in the maximum capacity requirement set forth in the notice under subsection (a)(1)(A).

"(2) Within 3 years after receiving written notice of increased capacity requirements under paragraph (1), or within such longer time period as the Attorney General may specify, a telecommunications carrier shall ensure that its systems are capable of expanding to the increased maximum capacity set forth in the notice.

"§ 2604. Systems security and integrity

"A telecommunications carrier shall ensure that any court ordered or lawfully authorized interception of communications or access to call-identifying information effected within its switching premises can be activated only with the affirmative intervention of an individual officer or employee of the carrier.

"§ 2605. Cooperation of equipment manufacturers and providers of telecommunications support services

"(a) CONSULTATION.—A telecommunications carrier shall consult, as necessary, in a timely fashion with manufacturers of its telecommunications transmission and switching equipment and its providers of telecommunications support services for the purpose of identifying any service or equipment, including hardware and software, that may require modification so as to permit compliance with this chapter.

"(b) MODIFICATION OF EQUIPMENT AND SERVICES.—Subject to section 2607(c), a manufacturer of telecommunications transmission or switching equipment and a provider of telecommunications support services shall, on a reasonably timely basis and at a reasonable charge, make available to the telecommunications carriers using its equipment or services such modifications as are necessary to permit such carriers to comply with this chapter.

"§ 2606. Technical requirements and standards; extension of compliance date

"(a) SAFE HARBOR.—

"(1) CONSULTATION.—To ensure the efficient and industry-wide implementation of the assistance capability requirements under section 2602, the Attorney General, in coordination with other Federal, State, and local law enforcement agencies, shall consult with appropriate associations and standard-setting organizations of the telecommunications industry and with representatives of users of telecommunications services and facilities.

"(2) COMPLIANCE UNDER ACCEPTED STANDARDS.—A telecommunications carrier shall be found to be in compliance with the assistance capability requirements under section 2602, and a manufacturer of telecommunications transmission or switching equipment or a provider of telecommunications support services shall be found to be in compliance with section 2605, if the carrier, manufacturer, or support service provider is in compliance with publicly available technical requirements or standards adopted by an industry association or standard-setting organization or by the Commission under subsection (b) to meet the requirements of section 2602.

"(3) ABSENCE OF STANDARDS.—The absence of technical requirements or standards for implementing the assistance capability requirements of section 2602 shall not—

"(A) preclude a carrier, manufacturer, or services provider from deploying a technology or service; or

"(B) relieve a carrier, manufacturer, or service provider of the obligations imposed by section 2602 or 2605, as applicable.

"(b) FCC AUTHORITY.—

"(1) IN GENERAL.—If industry associations or standard-setting organizations fail to issue technical requirements or standards or if a government agency or any other person believes that such requirements or standards are deficient, the agency or person may petition the Commission to establish, by notice and comment rulemaking or such other proceedings as the Commission may be authorized to conduct, technical requirements or standards that—

"(A) meet the assistance capability requirements of section 2602;

"(B) protect the privacy and security of communications not authorized to be intercepted; and

"(C) serve the policy of the United States to encourage the provision of new technologies and services to the public.

"(2) TRANSITION PERIOD.—If an industry technical requirement or standard is set aside or supplanted as a result of Commission action under this section, the Commission, after consultation with the Attorney General, shall establish a reasonable time and conditions for compliance with and the transition to any new standard, including defining the obligations of telecommunications carriers under section 2602 during any transition period.

"(c) EXTENSION OF COMPLIANCE DATE FOR FEATURES AND SERVICES.—

"(1) PETITION.—A telecommunications carrier proposing to deploy, or having deployed, a feature or service within 4 years after the date of enactment of this chapter may petition the Commission for 1 or more extensions of the deadline for complying with the assistance capability requirements under section 2602.

"(2) GROUND FOR EXTENSION.—The Commission may, after affording a full opportunity for hearing and after consultation with the Attorney General, grant an extension under this paragraph, if the Commission determines that compliance with the assistance capability requirements under section 2602 is not reasonably achievable through application of technology available within the compliance period.

"(3) LENGTH OF EXTENSION.—An extension under this paragraph shall extend for no longer than the earlier of—

"(A) the date determined by the Commission as necessary for the carrier to comply with the assistance capability requirements under section 2602; or

"(B) the date that is 2 years after the date on which the extension is granted.

"(4) APPLICABILITY OF EXTENSION.—An extension under this subsection shall apply to only that part of the carrier's business on which the new feature or service is used.

"§ 2607. Enforcement orders

"(a) ENFORCEMENT BY COURT ISSUING SURVEILLANCE ORDER.—If a court authorizing an interception under chapter 119, a State statute, or the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801 et seq.) or authorizing use of a pen register or a trap and trace device under chapter 206 or a State statute finds that a telecommunications carrier has failed to comply with the requirements in this chapter, the court may direct that the carrier comply forthwith and may direct that a provider of support services to the carrier or the manufacturer of the carrier's transmission or switching equipment furnish forthwith modifications necessary for the carrier to comply.

"(b) ENFORCEMENT UPON APPLICATION BY ATTORNEY GENERAL.—The Attorney General may apply to the appropriate United States district court for, and the United States district courts shall have jurisdiction to issue, an order directing that a telecommunications carrier, a manufacturer of telecommunications transmission or switching equipment, or a provider of telecommunications support services comply with this chapter.

"(c) GROUNDS FOR ISSUANCE.—A court shall issue an order under subsection (a) or (b) only if the court finds that—

"(1) alternative technologies or capabilities or the facilities of another carrier are not reasonably available to law enforcement for implementing the interception of communications or access to call-identifying information; and

"(2) compliance with the requirements of this chapter is reasonably achievable through the application of available technology to the feature or service at issue or would have been reasonably achievable if timely action had been taken.

"(d) TIME FOR COMPLIANCE.—Upon issuance of an enforcement order under this section, the court shall specify a reasonable time and conditions for complying with its order, considering the good faith efforts to comply in a timely manner, any effect on the carrier's, manufacturer's, or service provider's ability to continue to do business, the degree of culpability or delay in undertaking efforts to comply, and such other matters as justice may require.

"(e) LIMITATION.—An order under this section may not require a telecommunications carrier to meet the government's demand for interception of communications and acquisition of call-identifying information to any extent in excess of the capacity for which notice has been provided under section 2603.

"(f) CIVIL PENALTY.—

"(1) IN GENERAL.—A court issuing an order under this section against a telecommunications carrier, a manufacturer of telecommunications transmission or switching equipment, or a provider of telecommunications support services may impose a civil penalty of up to $10,000 per day for each day in violation after the issuance of the order or after such future date as the court may specify.

"(2) CONSIDERATIONS.—In determining whether to impose a fine and in determining its amount, the court shall take into account—

"(A) the nature, circumstances, and extent of the violation;

"(B) the violator's ability to pay, the violator's good faith efforts to comply in a timely manner, any effect on the violator's ability to continue to do business, the degree of culpability, and the length of any delay in undertaking efforts to comply; and

"(C) such other matters as justice may require.

"(3) CIVIL ACTION.—The Attorney General may file a civil action in the appropriate United States district court to collect, and the United States district courts shall have jurisdiction to impose, such fines.

"§ 2608. Payment of costs of telecommunications carriers

"(a) EQUIPMENT, FEATURES, AND SERVICES DEPLOYED BEFORE DATE OF ENACTMENT; CAPACITY COSTS.—The Attorney General shall, subject to the availability of appropriations, pay telecommunications carriers for all reasonable costs directly associated with—

"(1) the modifications performed by carriers prior to the effective date of section 2602 or prior to the expiration of any extension granted under section 2606(c) to establish, with respect to equipment, features, and services deployed before the date of enactment of this chapter, the capabilities necessary to comply with section 2602;

"(2) meeting the maximum capacity requirements set forth in the notice under section 2603(a)(1)(A); and

"(3) expanding existing facilities to accommodate simultaneously the number of interceptions, pen registers and trap and trace devices for which notice has been provided under section 2603(a)(1)(B).

"(b) EQUIPMENT, FEATURES, AND SERVICES DEPLOYED ON OR AFTER DATE OF ENACTMENT.—

"(1) IN GENERAL.—If compliance with the assistance capability requirements of section 2602 is not reasonably achievable with respect to equipment, features, or services deployed on or after the date of enactment of this chapter, the Attorney General, on application of a telecommunications carrier, may pay the telecommunications carrier reasonable costs directly associated with achieving compliance.

"(2) CONSIDERATION.—In determining whether compliance with the assistance capability requirements of section 2602 is reasonably achievable with respect to any equipment, feature, or service deployed the date of enactment of this chapter, consideration shall be given to the time when the equipment, feature, or service was deployed.

"(c) ALLOCATION OF FUNDS FOR PAYMENT.—The Attorney General shall allocate funds appropriated to carry out this chapter in accordance with law enforcement priorities determined by the Attorney General.

"(d) FAILURE TO MAKE PAYMENT WITH RESPECT TO EQUIPMENT, FEATURES, AND SERVICES DEPLOYED BEFORE DATE OF ENACTMENT.—

"(1) CONSIDERED TO BE IN COMPLIANCE.—Unless the Attorney General has agreed to pay the telecommunications carrier for all reasonable costs directly associated with modifications necessary to bring the equipment, feature, or service into actual compliance with those requirements, provided the carrier has requested payment in accordance with procedures promulgated pursuant to subsection (e), any equipment, feature, or service of a telecommunications carrier deployed before the date of enactment of this chapter shall be considered to be in compliance with the assistance capability requirements of section 2602 unless the equipment, feature, or service is replaced or significantly upgraded or otherwise undergoes major modification.

"(2) LIMITATION ON ORDER.—An order under section 2607 shall not require a telecommunications carrier to modify, for the purpose of complying with the assistance capability requirements of section 2602, any equipment, feature, or service deployed before the date of enactment of this chapter unless the Attorney General has agreed to pay the telecommunications carrier for all reasonable costs directly associated with modifications necessary to bring the equipment, feature, or service into actual compliance with those requirements.

"(e) PROCEDURES AND REGULATIONS.—Notwithstanding any other law, the Attorney General shall, after notice and comment, establish any procedures and regulations deemed necessary to effectuate timely and cost-efficient payment to telecommunications carriers for compensable costs incurred under this chapter, under chapters 119 and 121, and under the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801 et seq.).

"(f) DISPUTE RESOLUTION.—If there is a dispute between the Attorney General and a telecommunications carrier regarding the amount of reasonable costs to be paid under subsection (a), the dispute shall be resolved and the amount determined in a proceeding initiated at the Commission or by the court from which an enforcement order is sought under section 2607.".

(b) TECHNICAL AMENDMENT.—The part analysis for part I of title 18, United States Code, is amended by inserting after the item relating to chapter 119 the following new item:

"120. Telecommunications carrier assistance to the Government ..... 2601".

SEC. 2. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to carry out section 2608 of title 18, United States Code, as added by section 1—

(1) a total of $500,000,000 for fiscal years 1995, 1996, and 1997; and

(2) such sums as are necessary for each fiscal year thereafter,

such sums to remain available until expended.

SEC. 3. EFFECTIVE DATE.

(a) IN GENERAL.—Except as provided in paragraph (2), chapter 120 of title 18, United States Code, as added by section 1, shall take effect on the date of enactment of this Act.

(b) ASSISTANCE CAPABILITY AND SYSTEMS SECURITY AND INTEGRITY REQUIREMENTS.—Sections 2602 and 2604 of title 18, United States Code, as added by section 1, shall take effect on the date that is 4 years after the date of enactment of this Act.

SEC. 4. REPORTS.

(a) REPORTS BY THE ATTORNEY GENERAL.—

(1) IN GENERAL.—On or before November 30, 1995, and on or before November 30 of each year for 5 years thereafter, the Attorney General shall submit to Congress and make available to the public a report on the amounts paid during the preceding fiscal year in payment to telecommunications carriers under section 2608 of title 18, United States Code, as added by section 1.

(2) CONTENTS.—A report under paragraph (1) shall include—

(A) a detailed accounting of the amounts paid to each carrier and the technology, equipment, feature or service for which the amounts were paid; and

(B) projections of the amounts expected to be paid in the current fiscal year, the carriers to which payment is expected to be made, and the technologies, equipment, features or services for which payment is expected to be made.

(b) REPORTS BY THE COMPTROLLER GENERAL.—

(1) PAYMENTS FOR MODIFICATIONS.—On or before April 1, 1996, and April 1, 1998, the Comptroller General of the United States, after consultation with the Attorney General and the telecommunications industry, shall submit to the Congress a report reflecting its analysis of the reasonableness and cost-effectiveness of the payments made by the Attorney General to telecommunications carriers for modifications necessary to ensure compliance with chapter 120 of title 18, United States Code, as added by section 1.

(2) COMPLIANCE COST ESTIMATES.—A report under paragraph (1) shall include the findings and conclusions of the Comptroller General on the costs to be incurred after the compliance date, including projections of the amounts expected to be incurred and the technologies, equipment, features or services for which expenses are expected to be incurred by telecommunications carriers to comply with the assistance capability requirements in the first 5 years after the effective date of section 2602.

SEC. 5. CORDLESS TELEPHONES.

(a) DEFINITIONS.—Section 2510 of title 18, United States Code, is amended—

(1) in paragraph (1) by striking "but such term does not include" and all that follows through "base unit"; and

(2) in paragraph (12) by striking subparagraph (A) and redesignating subparagraphs (B), (C), and (D) as subparagraphs (A), (B), and (C), respectively.

(b) PENALTY.—Section 2511 of title 18, United States Code, is amended—

(1) in subsection (4)(b)(i) by inserting "a cordless telephone communication that is

transmitted between the cordless telephone handset and the base unit," after "cellular telephone communication,"; and

(2) in subsection (4)(b)(ii) by inserting "a cordless telephone communication that is transmitted between the cordless telephone handset and the base unit," after "cellular telephone communication,".

SEC. 6. RADIO-BASED DATA COMMUNICATIONS.

Section 2510(16) of title 18, United States Code, is amended—

(1) by striking "or" at the end of subparagraph (D);

(2) by inserting "or" at the end of subparagraph (E); and

(3) by inserting after subparagraph (E) the following new subparagraph:

"(F) an electronic communication;"

SEC. 7. PENALTIES FOR MONITORING RADIO COMMUNICATIONS THAT ARE TRANSMITTED USING MODULATION TECHNIQUES WITH NONPUBLIC PARAMETERS.

Section 2511(4)(b) of title 18, United States Code, is amended by striking "or encrypted, then" and inserting ", encrypted, or transmitted using modulation techniques the essential parameters of which have been withheld from the public with the intention of preserving the privacy of such communication".

SEC. 8. TECHNICAL CORRECTION.

Section 2511(2)(a)(i) of title 18, United States Code, is amended by striking "used in the transmission of a wire communication" and inserting "used in the transmission of a wire or electronic communication".

SEC. 9. FRAUDULENT ALTERATION OF COMMERCIAL MOBILE RADIO INSTRUMENTS.

(a) OFFENSE.—Section 1029(a) of title 18, United States Code, is amended—

(1) by striking "or" at the end of paragraph (3); and

(2) by inserting after paragraph (4) the following new paragraphs:

"(5) knowingly and with intent to defraud uses, produces, traffics in, has control or custody of, or possesses a telecommunications instrument that has been modified or altered to obtain unauthorized use of telecommunications services; or

"(6) knowingly and with intent to defraud uses, produces, traffics in, has control or custody of, or possesses—

"(A) a scanning receiver; or

"(B) hardware or software used for altering or modifying telecommunications instruments to obtain unauthorized access to telecommunications services,".

(b) PENALTY.—Section 1029(c)(2) of title 18, United States Code, is amended by striking "(a)(1) or (a)(4)" and inserting "(a) (1), (4), (5), or (6)".

(c) DEFINITIONS.—Section 1029(e) of title 18, United States Code, is amended—

(1) in paragraph (1) by inserting "electronic serial number, mobile identification number, personal identification number, or other telecommunications service, equipment, or instrument identifier," after "account number,";

(2) by striking "and" at the end of paragraph (5);

(3) by striking the period at the end of paragraph (6) and inserting "; and"; and

(4) by adding at the end the following new paragraph:

"(7) the term 'scanning receiver' means a device or apparatus that can be used to intercept a wire or electronic communication in violation of chapter 119.".

SEC. 10. TRANSACTIONAL DATA.

(a) DISCLOSURE OF RECORDS.—Section 2703 of title 18, United States Code, is amended—

(1) in subsection (c)(1)—

(A) in subparagraph (B)—

(i) by striking clause (i); and

(ii) by redesignating clauses (ii), (iii), and (iv) as clauses (i), (ii), and (iii), respectively; and

(B) by adding at the end the following new subparagraph:

"(C) A provider of electronic communication service or remote computing service shall disclose to a governmental entity the name, address, telephone toll billing records, and length of service of a subscriber to or customer of such service and the types of services the subscriber or customer utilized, when the governmental entity uses an administrative subpoena authorized by a Federal or State statute or a Federal or State grand jury or trial subpoena or any means available under subparagraph (B)."; and

(2) by amending the first sentence of subsection (d) to read as follows: "A court order for disclosure under subsection (b) or (c) may be issued by any court that is a court of competent jurisdiction described in section 3126(2)(A) and shall issue only if the governmental entity offers specific and articulable facts showing that there are reasonable grounds to believe that the contents of a wire or electronic communication, or the records or other information sought, are relevant and material to an ongoing criminal investigation.".

(b) PEN REGISTERS AND TRAP AND TRACE DEVICES.—Section 3121 of title 18, United States Code, is amended—

(1) by redesignating subsection (c) as subsection (d); and

(2) by inserting after subsection (b) the following new subsection:

"(c) LIMITATION.—A government agency authorized to install and use a pen register under this chapter or under State law, shall use technology reasonably available to it that restricts the recording or decoding of electronic or other impulses to the dialing and signalling information utilized in call processing.".

MINORITY SMALL BUSINESS OPPORTUNITIES

The text of the bill (S. 2478) to amend the Small Business Act to enhance the business development opportunities of small business concerns owned and controlled by socially and economically disadvantaged individuals, and for other purposes, as passed by the Senate on October 7, 1994, is as follows:

S. 2478

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Business Development Opportunity Act of 1994".

SEC. 2. TABLE OF CONTENTS.

The table of contents for this Act is as follows:

(a) PROGRAM ESTABLISHED.—Section 7(j)(10) of the Small Business Act (15 U.S.C. 636(j)(10)) is amended—

(1) by striking the subsection designation and the first 2 sentences and inserting the following:

"(10) MINORITY ENTERPRISE DEVELOPMENT PROGRAM.—

"(A) ESTABLISHMENT.—There is established within the Administration a Minority Enterprise Development Program (hereafter in this paragraph referred to as the 'Program'), which shall be administered by an Associate Administrator in accordance with this paragraph and section 8(a).";

(2) by striking subparagraph (B);

(3) by striking "(A) The Program shall—" and inserting the following:

"(B) PROGRAM GOALS.—The Program shall—"; and

(4) in subparagraph (C)(i), by striking "participating in any program or activity conducted under the authority of this paragraph or".

(b) PROGRAM PHASES.—Section 7(j)(12) of the Small Business Act (15 U.S.C. 636(j)(12)) is amended to read as follows:

"(12) SEGMENTING OF MINORITY ENTERPRISE DEVELOPMENT PROGRAM.—

"(A) IN GENERAL.—In addition to such other segments as the Administrator deems appropriate, the Minority Enterprise Development Program established in paragraph (10) shall consist of the following 3 phases:

"(i) The Business Creation Phase.

"(ii) The Business Development Phase.

"(iii) The Business Development (Preferential Contracting) Phase.

"(B) ELIGIBILITY FOR PREFERENTIAL CONTRACTING.—Only a firm participating in the Business Development (Preferential Contracting) Phase shall be eligible for award of Federal contracts pursuant to section 8(a) (and shall be referred to as a 'Program Participant' for the purposes of this section and section 8(a)).

"(C) PARTICIPATION BY FIRMS.—Except as provided in section 10(c), a firm may participate in the Business Development (Preferential Contracting) Phase described in subparagraph (A)(iii) for a total period of not more than 9 years, which period shall be divided into the following 2 stages:

"(i) A developmental stage (of not more than the first 5 years).

"(ii) A transitional stage.".

(c) CONFORMING AMENDMENTS.—The Small Business Act (15 U.S.C. 601 et seq.) is amended—

(1) by striking "Minority Small Business and Capital Ownership Development" each place it appears and inserting "Minority Enterprise Development";

(2) by striking "Capital Ownership Development" each place it appears and inserting "Minority Enterprise Development";

(3) by striking "capital ownership development" each place it appears and inserting "minority enterprise development";

(4) by striking "Business Opportunity Specialist" each place it appears and inserting "Business Development Specialist"; and

(5) by striking section 7(j)(15) and inserting the following:

"(15) [Reserved].".

SEC. 102. CONSOLIDATION OF ELIGIBILITY REVIEW FUNCTION.

Section 7(j)(11)(E) of the Small Business Act (15 U.S.C. 636(j)(11)(E)) is amended by striking the third sentence.

SEC. 103. CLARIFICATION OF VARIOUS ELIGIBILITY CRITERIA.

(a) TRIBALLY OWNED CORPORATIONS.—Sections 7(j) and 8(a) of the Small Business Act (15 U.S.C. 636(j), 637(a)) are each amended by striking "an economically disadvantaged Indian tribe" each place it appears and inserting "an Indian tribe".

(b) NATIVE HAWAIIAN ORGANIZATIONS.—Section 8(a)(4)(A) of the Small Business Act (15 U.S.C. 637(a)(4)(A)) is amended by striking "an economically disadvantaged Native Hawaiian organization" each place it appears and inserting "a Native Hawaiian organization".

(c) PRESUMPTION OF ECONOMIC DISADVANTAGE.—Section 8(a)(6)(A) of the Small Business Act (15 U.S.C. 637(a)(6)(A)) is amended by striking the last sentence.

SEC. 104. CLARIFICATION OF CERTAIN ADDITIONAL ELIGIBILITY CRITERIA IMPOSED BY REGULATION.

Section 7(j)(11)(G) of the Small Business Act (15 U.S.C. 636(j)(11)(G)) is amended to read as follows:

"(G) An applicant shall not be denied admission into the Minority Enterprise Development Program established in paragraph (10) based solely on a determination by the Division that—

"(i) specific contract opportunities are unavailable to assist in the development of such concern, unless—

"(I) the Government has not previously procured and is unlikely to procure the types of products or services offered by the concern; and

"(II) the purchases of such products or services by the Federal Government will not be in quantities sufficient to support the developmental needs of the applicant and other Program Participants providing the same or similar items or services;

"(ii) the prospective Program Participant firm has not been in operation for a period of time specified by the Administration prior to making application to the Program, if the prospective Program Participant firm can demonstrate that—

"(I) the individual or individuals upon whom eligibility is to be based have substantial and demonstrated business management experience;

"(II) the prospective Program Participant has demonstrated technical expertise necessary to carry out its business plan with a substantial likelihood of success;

"(III) the prospective Program Participant has, or can demonstrate its ability to timely obtain, adequate capital to carry out its business plan;

"(IV) the prospective Program Participant can demonstrate the competitive award and performance (either ongoing or completed) of contracts from governmental or nongovernmental sources in the primary industry category reflected in its business plan; and

"(V) the prospective Program Participant has, or can demonstrate its ability to timely obtain, the personnel, facilities, equipment, and any other requirements needed to perform contracts of the type likely to be awarded to the firm pursuant to section 8(a);

"(iii) the individual or individuals upon whom eligibility is to be based have not been working full time at managing the prospective Program Participant firm for a period specified by the Administration prior to making application to the Program;

"(iv) the prospective Program Participant is a tribally owned corporation whose chief executive officer (or chief operating officer) is other than a Native American, if the governing body of the Indian tribe certifies to the Administration that it was unable to hire a qualified Native American after conducting a national recruitment for such individual; or

"(v) the prospective Program Participant lacks reasonable prospects for future success despite access to one or more of the types of developmental assistance provided for in paragraph (13), unless such determination is supported by specific findings.".

SEC. 105. ENHANCING DUE PROCESS IN ELIGIBILITY DETERMINATIONS.

Section 7(j)(11)(H) of the Small Business Act (15 U.S.C. 636(j)(11)(H)) is amended—

(1) by striking "(H)" and inserting "(H)(i)"; and

(2) by adding at the end the following new clauses:

"(ii) The Associate Administrator for Minority Enterprise Development shall—

"(I) notify an applicant, in writing, of the denial of an application under clause (i), stating the specific determinations supported by specific findings in support of the denial; and

"(II) provide the applicant an opportunity to respond (or to modify the business organization of the applicant in response) to matters raised in the notice of denial and to seek a reconsideration of the application.

"(iii) If the application is denied upon reconsideration pursuant to clause (ii) and the denial is based upon determinations or findings not previously cited as a basis for the initial denial of the application, the Associate Administrator for Minority Enterprise Development shall provide the applicant an opportunity to respond to the determinations or findings not previously raised, or to modify the business organization of the applicant in response to such determinations or findings.".

SEC. 106. IMPROVING GEOGRAPHIC DISTRIBUTION OF PROGRAM PARTICIPANTS.

(a) ACTION PLAN REQUIRED.—The Administrator of the Small Business Administration shall develop an action plan for improving participation in the Minority Enterprise Development Program established by section 101 by firms across the Nation.

(b) CONTENTS OF THE ACTION PLAN.—In addition to such other matters as the Administrator deems appropriate, the action plan developed under subsection (a) shall address—

(1) an outreach program directed at small business concerns owned and controlled by

socially and economically disadvantaged individuals eligible for program participation in those States with historically low rates of participation in the Minority Enterprise Development Program (and its predecessor program, the Minority Small Business and Capital Ownership Development Program); and

(2) improved implementation of section 8(a)(16)(B) of the Small Business Act (relating to geographic distribution of contracts awarded noncompetitively pursuant to section 8(a)(1) of such Act).

(c) PUBLIC PARTICIPATION.—In carrying out this section, the Administrator shall seek public comment on the proposals to be included in the action plan.

(d) SUBMISSION.—Not later than June 30, 1995, the action plan developed under subsection (a) shall be submitted to the Committees on Small Business of the Senate and House of Representatives.

PART B—BUSINESS DEVELOPMENT ASSISTANCE

SEC. 111. DEVELOPMENTAL ASSISTANCE AUTHORIZED FOR PROGRAM PARTICIPANTS.

Section 7(j) of the Small Business Act (15 U.S.C. 636(j)) is amended—

(1) in paragraph (13), in the matter preceding subparagraph (A), by striking "the stages of program participation specified in paragraph 12" and inserting "its Program participation"; and

(2) by striking paragraph (14) and inserting the following:

"(14) [Reserved].".

SEC. 112. EXPANDING THE ELIGIBLE USES FOR LOANS UNDER EXISTING LOAN PROGRAMS FOR PROGRAM PARTICIPANTS.

Section 7(a)(20)(A)(iii) of the Small Business Act (15 U.S.C. 636(a)(20)(A)(iii)) is amended by striking "to be used" and all that follows before the semicolon.

SEC. 113. TEST PROGRAM FOR THE USE OF SURETY BOND WAIVERS.

Section 7(j)(13)(D) of the Small Business Act (15 U.S.C. 636(j)(13)(D)) is amended—

(1) by striking clauses (i) through (iii);

(2) by striking "A maximum" and inserting "(i) A maximum";

(3) by striking ", except that, such exemptions may be granted under this subparagraph only

if—" and inserting a period; and

(4) by adding at the end the following new clauses:

"(ii) The agency with contracting authority may, upon the request of the Program Participant, grant an exemption pursuant to clause (i), if—

"(I) the Program Participant provides certification, in the form prescribed by the Administration, that the firm was unable to obtain the requisite bonding from corporate surety bonding firms even with a guarantee issued by the Administration pursuant to title IV of the Small Business Investment Act of 1958;

"(II) the Program Participant has provided for the protection of persons furnishing materials or labor under the contract by arranging for—

"(aa) the direct disbursement of funds owed to such persons by the procuring agency or through an escrow account provided by any bank the deposits of which are insured by the United States Government; or

"(bb) irrevocable letters of credit (or other alternatives to surety bonding acceptable to the procuring agency); and

"(III) the award value of the contract for which the exemption is being sought does not exceed $1,000,000.

"(iii) The authority to grant an exemption under clause (ii) shall cease to be effective on September 30, 1997.".

SEC. 114. TARGETING SECTION 7(j) BUSINESS MANAGEMENT ASSISTANCE TO PROGRAM PARTICIPANTS.

Section 7(j)(1) of the Small Business Act (15 U.S.C. 636(j)(1)) is amended by striking "individuals or enterprises eligible for assistance under sections 7(i), 7(j)(10), and 8(a) of this Act" and inserting "participants in the Minority Enterprise Development Program established in paragraph (10)".

SEC. 115. OTHER ENHANCEMENTS TO THE SECTION 7(j) MANAGEMENT ASSISTANCE PROGRAM.

(a) FOCUS ON BUSINESS MANAGEMENT ASSISTANCE.—Section 7(j)(2)(E) of the Small Business Act (15 U.S.C. 636(j)(2)(E)) is amended to read as follows:

"(E) the furnishing of business development services and related professional services, especially accounting and legal services, with special emphasis on marketing, bid and proposal preparation, financial management, strategic business planning, and transition management planning for participants in the Minority Enterprise Development Program, that will foster the continued business development of the Program Participants after program graduation.".

(b) TWO-YEAR AUTHORIZATION.—Section 7(j)(5) of the Small Business Act (15 U.S.C. 636(j)(5)) is amended to read as follows:

"(5)(A) Financial assistance authorized in paragraph (1) may be provided through grants, cooperative agreements, or contracts.

"(B) Funds appropriated to carry out paragraph (1) shall remain available for obligation by the Administration during the fiscal year succeeding the fiscal year for which the funds were appropriated.

"(C) Recipients of financial assistance awarded pursuant to paragraph (1) may expend such funds prior to the expiration date of the grant, cooperative agreement, or contract under which the funds were awarded.".

(c) ELIGIBILITY FOR CERTAIN EDUCATIONAL INSTITUTIONS.—Section 7(j) of the Small Business Act (15 U.S.C. 636(j)) is amended—

(1) in paragraph (2)—

(A) by redesignating subparagraphs (A) through (E) as subparagraphs (B) through (F), respectively; and

(B) by inserting before subparagraph (B), as redesignated, the following new subparagraph:

"(A) business executive education programs conducted by institutions of graduate business education for owners or managers of small business concerns owned and controlled by socially and economically disadvantaged individuals (as defined in section 8(d)(3)(C));"; and

(2) by striking paragraph (4) and inserting the following:

"(4) In making awards pursuant to paragraph (1) to institutions of graduate business education eligible under paragraph (2)(A), the Administration shall give preference to institutions that have previously provided such programs, with the greatest preference being accorded to institutions that have provided such programs for a period of not less than 10 consecutive years.".

SEC. 116. DEVELOPMENTAL TEAMING.

(a) PROGRAM ESTABLISHED.—There is established a Developmental Teaming Program (hereafter in this section referred to as the "Program") within the Minority Enterprise Development Program established under section 101.

(b) PURPOSE.—The purpose of the Program shall be to foster the business development and long-term business success of firms participating in the Minority Enterprise Development Program by encouraging the formation of teaming arrangements and long-term strategic business alliances between such firms and firms that have graduated from the Minority Enterprise Development Program (and its predecessor program, the Minority Small Business and Capital Ownership Development Program).

(c) PROGRAM PARTICIPANTS.—

(1) ASSISTANCE RECIPIENTS.—Small business concerns owned and controlled by socially and economically disadvantaged individuals that are participants in the Business Development (Preferential Contracting) Phase of the Minority Enterprise Development Program shall be eligible to participate in the Program (and shall be referred to as "Program Participants" for purposes of this section).

(2) ASSISTANCE PROVIDERS.—A small business concern owned and controlled by socially and economically disadvantaged individuals that is a graduate (or a current Program Participant in the Transitional Stage) of the Business Development (Preferential Contracting Phase) of the Minority Enterprise Development Program (and its predecessor program, the Minority Small Business and Capital Ownership Development Program) shall be eligible to participate in the Program and to furnish developmental assistance to Program Participants through a developmental teaming agreement, approved pursuant to subsection (d). (For purposes of this section, firms having, or seeking to establish, a developmental teaming agreement shall be referred to as "Developmental Teaming Partners").

(d) TEAMING AGREEMENTS.—

(1) ASSISTANCE AUTHORIZED.—A Developmental Teaming Partner may provide to a Program Participant one or more of the following forms of developmental assistance and training:

(A) General business management (including financial management, organizational management and personnel management).

(B) Business development, marketing, and proposal preparation.

(C) Process engineering (including production, inventory control, and quality assurance).

(D) Award of subcontracts on a noncompetitive basis.

(E) Technology transfer.

(F) Financial assistance (including loans, loan guarantees, surety bonding, advance payments, and accelerated progress payments).

(G) Such other forms of assistance designed to foster the development of the Program Participant, contained in a developmental teaming agreement approved pursuant to paragraph (3).

(2) CONTENT OF AGREEMENTS.—In addition to such other matters as the parties may deem appropriate, each developmental teaming agreement shall include the matters described in subsection (e).

(3) APPROVAL REQUIRED.—Each developmental teaming agreement shall be approved by the Administration before—

(A) the furnishing of any type of developmental assistance to a Program Participant pursuant to such agreement; or

(B) the Developmental Teaming Partner becomes eligible for any of the incentives authorized by subsection (f).

(4) ACTION BY THE ADMINISTRATION.—Each proposed developmental teaming agreement

shall be reviewed and approved (or denied approval) not later than 45 days after the receipt of such agreement by the Administration. A denial of approval shall state specific reasons for the denial and shall afford the applicant an opportunity for reconsideration. Every reasonable effort shall be made by the Administration to act upon matters relating to the administration of an approved developmental teaming agreement not later than 30 days after the receipt of such agreement by the Administration.

(e) CONTENT OF THE AGREEMENT.—

(1) FORMS OF ASSISTANCE.—Each developmental teaming agreement shall specify forms of business development assistance to be furnished by the Developmental Teaming Partner and indicate how these forms of assistance are designed to advance the approved business plan of the Program Participant.

(2) MEASURES OF SUCCESS.—Each developmental teaming agreement shall include specific milestones or benchmarks which will permit objective measurement of whether the agreement has advanced the business development of the Program Participant.

(3) DURATION OF AGREEMENT.—Each developmental teaming agreement between a Program Participant and a Developmental Assistance Provider may be for a term not to exceed 3 years, with the option of the parties to renew the agreement upon its expiration for an additional term of not to exceed 2 years.

(4) TERMINATION OF AGREEMENT.—The developmental teaming agreement shall include provisions regarding the termination of the agreement that meet the standards of subsection (h).

(f) PARTICIPATION AS SUBCONTRACTOR.—A Developmental Teaming Partner may be awarded a subcontract under a contract awarded pursuant to section 8(a)(1) of the Small Business Act, without regard to the subcontracting limitations of section 8(a)(14) of such Act, if—

(1) the contract was awarded to a Program Participant with which such firm has an approved developmental teaming agreement; and

(2) the subcontract award was approved as part of the developmental teaming agreement (or subsequently approved by the Administration).

(g) AFFILIATION OR CONTROL.—For the purposes of the Small Business Act, no determination of affiliation or control (either direct or indirect) shall be found on the basis that a Program Participant is being furnished (or has entered into agreement to be furnished) developmental assistance pursuant to a developmental teaming agreement, approved pursuant to subsection (d).

(h) TERMINATION OF AGREEMENTS.—

(1) BY A PROGRAM PARTICIPANT.—A Program Participant may voluntarily terminate a developmental teaming agreement after giving not less than 30 days advance notice to its Developmental Teaming Partner.

(2) BY A DEVELOPMENTAL ASSISTANCE PROVIDER.—

(A) WITHDRAWAL FROM PROGRAM.—A Developmental Teaming Partner may terminate its developmental teaming agreement with a Program Participant by withdrawing from the Program after giving not less than 30 days advance notice to the Administration and to each of the Program Participants for which the firm was a Developmental Teaming Partner.

(B) TERMINATING AN AGREEMENT FOR CAUSE.—

(i) IN GENERAL.—A Developmental Teaming Partner may terminate its developmental teaming agreement with a Program Participant for cause in accordance with the procedures in clause (ii).

(ii) NOTICE.—In terminating an agreement under clause (i), the following procedures shall apply:

(I) IN GENERAL.—The Program Participant shall be furnished a written notice of the proposed termination under clause (i), not less than 30 days prior to the effective date of such proposed termination, that states the specific reasons for the proposed termination.

(II) RESPONSE.—The Program Participant shall have not more than 30 days to respond to such notice of proposed termination, rebutting any findings believed to be erroneous and offering a remedial program.

(III) FINAL ACTION.—After giving the Program Participant's response prompt consideration, the Developmental Teaming Partner shall either withdraw the notice of proposed termination or issue a notice of termination.

(iii) NONREVIEWABILITY.—The decision of the Developmental Teaming Partner regarding a termination for cause, conforming to the procedures of clause (ii), shall be final and shall not be subject to review by the Administration.

(3) BY THE SMALL BUSINESS ADMINISTRATION.—

(A) IN GENERAL.—The Administration may terminate the participation of a Developmental Teaming Partner or a Program Participant for cause in accordance with subparagraph (B).

(B) PROCEDURES.—In terminating an agreement under subparagraph (A), the following procedures shall apply:

(i) NOTICE.—The firm proposed for termination from the Program shall be furnished a written notice of the proposed termination, not less than 30 days prior to the effective date of such proposed termination, that states the specific reasons for the proposed termination.

(ii) RESPONSE.—The notice of proposed termination shall provide 30 days for the firm proposed for termination to respond to such notice.

(iii) FINAL ACTION.—After giving prompt consideration to the response of the firm proposed for termination, the Administration shall either withdraw the notice of proposed termination or issue a notice of termination.

(C) REVIEWABILITY.—A decision by the Administration to terminate for cause the participation of a firm in the Program shall be final, but may be appealed pursuant to section 8(a)(9) of the Small Business Act.

(i) DURATION OF THE PROGRAM.—

(1) IN GENERAL.—Business concerns eligible to participate in the Program may enter into developmental teaming agreements during the period commencing on the effective date of the regulations required by subsection (j) and ending on September 30, 1997.

(2) TERMINATION.—The Program shall terminate on September 30, 2002.

(j) REGULATIONS.—The Administrator of the Small Business Administration shall prescribe regulations to carry out the Developmental Teaming Program. Proposed regulations shall be published not later than 90 days after the date of enactment of this Act. Final regulations shall be promulgated not later than 180 days after the date of enactment of this Act.

(k) DEFINITIONS.—For purposes of this section, the following definitions shall apply:

(1) SMALL BUSINESS CONCERNS.—The term "small business concern" means a business concern that meets the requirements of section 3(a) of the Small Business Act and the regulations promulgated pursuant to such section.

(2) SMALL BUSINESS CONCERN OWNED AND CONTROLLED BY SOCIALLY AND ECONOMICALLY DISADVANTAGED INDIVIDUALS.—The term "small business concern owned and controlled by socially and economically disadvantaged individuals" has the same meaning as in section 8(d)(3)(C) of the Small Business Act.

(3) MINORITY ENTERPRISE DEVELOPMENT PROGRAM.—The term "Minority Enterprise Development Program" means the program authorized by section 7(j)(10)(A) of the Small Business Act (as amended by section 101).

(4) GRADUATED.—The term "graduated" has the same meaning as in section 7(j)(10)(H) of the Small Business Act.

PART C—IMPROVING ACCESS TO EQUITY FOR PROGRAM GRADUATES

SEC. 121. CONTINUED CONTRACT PERFORMANCE.

Section 8(a)(21) of the Small Business Act (15 U.S.C. 637(a)(21) is amended—

(1) in subparagraph (B), by striking "The Administrator may, on a nondelegable basis, waive the requirements of subparagraph (A) only if 1 of the following conditions exist:" and inserting "The requirements of subparagraph (A) may be waived, under any of the following circumstances:"; and

(2) by striking subparagraph (C) and inserting the following:

"(C)(i) Except as provided in clause (ii), a request for a waiver pursuant to subparagraph (B) shall be submitted prior to the actual relinquishment of ownership or control.

"(ii) Under the circumstances described in subparagraph (B)(iii), the waiver request shall be made as soon as practicable after the incapacity or death occurs.".

SEC. 122. CONTINUED PROGRAM PARTICIPATION.

Section 7(j)(11)(D) of the Small Business Act (15 U.S.C. 636(j)(11)(D)) is amended to read as follows:

"(D)(i) A Program Participant shall remain eligible for participation in the Program after a transfer of an ownership interest in the firm if ownership and control (as required by section 8(a)(4)) is—

"(I) retained by the socially and economically disadvantaged individuals upon whom Program eligibility is based; or

"(II) acquired by a small business concern owned and controlled by socially and economically disadvantaged individuals who have graduated from the Program or otherwise exited the Program through a means other than a termination proceeding.

"(ii) A Program Participant shall remain eligible for participation in the Program after transfer of ownership and control (as required by section 8(a)(4)) to individuals who are determined to be socially and economically disadvantaged pursuant to section 8(a). Unless graduated or terminated, the Program Participant shall be eligible for a period of continued Program Participation not to exceed the period described in paragraph (15).

"(iii) A Program Participant that is a tribally owned corporation may remain eligible for participation in the Program with other than a Native American as the firm's chief executive officer (or chief operating officer), if the governing body of the Indian tribe certifies to the Administration that it was unable to hire a qualified Native American after conducting a national recruitment for such an individual.".

PART D—CONTRACT AWARD AND ELIGIBILITY MATTERS

SEC. 131. CONTRACT AWARD PROCEDURES.

Section 8(a)(1) of the Small Business Act (15 U.S.C. 637(a)(1)) is amended—

(1) by striking subparagraphs (A), (B), and (C); and

(2) by striking "(a)(1)" and inserting the following:

"(a)(1)(A) The Administration shall ensure that contracts sufficient to satisfy the contract support levels identified by participants in the Minority Enterprise Development Program established in section 7(j)(10) are designated by the various Federal agencies for award pursuant to this subsection.

"(B) Except as provided in subparagraph (D), the award of contracts under this section shall be made on a noncompetitive basis by the agency offering the contracting opportunity to the Program Participant selected for the award, and determined to be responsible by such agency. The award shall be made at a fair market price.

"(C)(i) The Administration shall determine the eligibility of the Program Participant to receive the award in accordance with the eligibility criteria listed in paragraph (16).

"(ii) With respect to an individual contracting opportunity, the Administration may provide, upon a request by the Program Participant, assistance with respect to—

"(I) the negotiation of the terms and conditions of the award; and

"(II) the resolution of controversies arising from the performance of the contract prior to such contract performance controversies becoming formal contract disputes within the meaning of the Contract Disputes Act of 1978;

"(iii) In the event of an adverse decision by an agency regarding a contracting opportunity, the Administrator may—

"(I) not later than 5 days after receiving notice of such adverse decision, file a notice of intent to appeal with the head of the agency; and

"(II) not later than 15 days after receiving such notice, file an appeal with the head of the agency, requesting reconsideration of the adverse decision.

"(iv) Upon receipt of the notice of intent to file an appeal under clause (iii)(I), further action regarding award of the contract shall be suspended, unless the head of the agency makes a written determination, supported by specific findings, that urgent and compelling circumstances that significantly affect the interests of the United States will not permit reconsideration of the adverse decision.

"(v) If the head of the agency sustains the adverse decision upon reconsideration, the decision by the head of the agency shall be in writing and shall be supported by specific findings.

"(vi) An adverse decision regarding the responsibility of a Program Participant shall be decided pursuant to subsection (b)(7).

"(vii) For the purposes of this subparagraph, an adverse decision includes a decision by the contracting officer responsible for the contracting opportunity—

"(I) failing to respond to a request from the Administration to make a specific contracting opportunity available for award pursuant to this subsection;

"(II) declining to make available for award under this subsection a contracting opportunity (or class of contracting opportunities) or failing to support such a determination with specific findings;

"(III) finding a Program Participant to be ineligible for award of a contracting opportunity on the basis of a determination of nonresponsibility; or

"(IV) failing to reach agreement with the Program Participant with respect to the terms and conditions of a contract selected for award under this subsection.".

SEC. 132. TIMELY DETERMINATION OF ELIGIBILITY FOR CONTRACT AWARD.

(a) IN GENERAL.—Section 8(a)(16) of the Small Business Act (15 U.S.C. 637(a)(16)) is amended—

(1) by redesignating subparagraph (B) as subparagraph (E);

(2) by striking subparagraph (A) and inserting the following:

"(A) Upon receiving notification that a Federal agency intends to consider a Program Participant for award of a contract pursuant to this subsection (on a competitive or noncompetitive basis), the Administration shall promptly notify the agency regarding the eligibility of the Program Participant for award of the contract, and shall identify all matters that could reasonably be expected to render the Program Participant ineligible at the time of the contract award."; and

(3) by inserting after subparagraph (A) (as added by paragraph (2)) the following new subparagraphs:

"(B) A Program Participant may be found to be ineligible for award of the contract pursuant to this subsection, if—

"(i) the award of the contract would result in the Program Participant failing to attain its business activity targets established pursuant to section 7(j)(10)(I); or

"(ii) the Program Participant has failed to make the submissions required under paragraph (6)(B).

"(C) A small business concern owned and controlled by socially and economically disadvantaged individuals that has completed its Program Participation term pursuant to section 7(j)(15) shall be eligible for award if—

"(i) in the case of a contract to be competitively awarded, the prospective contract recipient was a Program Participant eligible for award of the contract on the date specified for receipt of offers, and such firm had timely submitted an offer (including price); or

"(ii) in the case of a contract to be noncompetitively awarded, the prospective contract recipient was a Program Participant eligible for award of the contract on the date specified by the agency contracting officer for the submission of an offer (including price).

"(D) If the Administration determines that a Program Participant is ineligible for consideration for award of a contract under subparagraph (B) or (C), the determination shall be supported by specific findings. The determination (and supporting findings) shall be furnished to the Program Participant and to the contracting officer for the agency providing the contracting opportunity.".

(b) CONFORMING AMENDMENTS.—Section 8(a) of the Small Business Act (15 U.S.C. 637(a)) is amended—

(1) in paragraph (3)—

(A) by striking subparagraph (A) and inserting the following:

"(A) [Reserved].."; and

(B) by striking subparagraph (D) and inserting the following:

"(D) Subsequent to the award of a contract under this subsection, if requested by the recipient of the contract, the Administration shall not publicly disclose the agency's estimate of the fair market price.";

(2) in paragraph (7), by striking subparagraph (A) and inserting the following:

"(A) [Reserved].";

(3) in paragraph (12)(A), by striking "eligible to receive subcontracts" and inserting "eligible for contract awards"; and

(4) in paragraph (9)(B)—

(A) in clause (iii), by striking "and";

(B) by redesignating clause (iv) as clause (v); and

(C) by inserting after clause (iii) the following new clause:

"(iv) a determination of ineligibility for award of contract pursuant to paragraph (16)(B); and".

SEC. 133. COMPETITION REQUIREMENTS.

(a) INDEFINITE QUANTITY AND DELIVERY CONTRACTS.—Section 8(a)(1)(D) of the Small Business Act (15 U.S.C. 637(a)(1)(D)) is amended—

(1) by redesignating clause (ii) as clause (iv); and

(2) by inserting after clause (i) the following new clause:

"(ii) Whenever a requirements-type contract (including a task order contract, indefinite quantity contract, or indefinite delivery contract) is to be awarded, the thresholds for competition required under clause (i)(II) shall be calculated on the basis of the estimated total value of the contract.".

(b) AUTHORIZATION FOR ADDITIONAL NONCOMPETITIVE CONTRACT AWARDS.—Section 8(a)(1)(D) of the Small Business Act (15 U.S.C. 637(a)(1)(D)) is amended by inserting after clause (ii) (as added by subsection (a)) the following new clause:

"(iii) The Associate Administrator for Minority Enterprise Development, on a nondelegable basis, may authorize the noncompetitive award of contracts in excess of the amounts specified in clause (i)(II) to a Program Participant, if—

"(I) such Program Participant is an emerging small business concern;

"(II) the award of such contracts would contribute substantially to the development of the Program Participant in accordance with its business plan, including attainment of the business activity targets established pursuant to section 7(j)(10)(I), by the time such firm enters the transitional stage;

"(III) the award value of the contract does not exceed twice the amounts specified in clause (i)(II); and

"(IV) the aggregate dollar value of awards pursuant to this clause does not exceed $20,000,000.".

SEC. 134. STANDARD INDUSTRIAL CLASSIFICATION CODES.

(a) APPROVAL OF CODES.—As part of the process of developing and maintaining a business plan pursuant to section 7(j)(10)(D) of the Small Business Act, a Program Participant may designate its capabilities to perform contracting opportunities under one or more standard industrial classification codes.

(b) DETERMINATIONS BY PROCURING AGENCY REGARDING APPLICABLE STANDARD INDUSTRIAL CLASSIFICATION CODE.—The standard industrial classification code assigned to a contracting opportunity by the responsible contracting officer shall apply, unless modified by the contracting officer after considering additional information furnished by the Administration or from other sources.

(c) EFFECT OF RESPONSIBILITY DETERMINATIONS.—The Administration shall be bound by a determination of responsibility by the agency contracting officer with respect to a Program Participant being considered for award of a contract pursuant to section 8(a) of the Small Business Act.

(d) CONFORMING AMENDMENT.—Section 8(a)(7) of the Small Business Act (15 U.S.C. 637(a)(7)) (as amended by section 132(b)(2)) is amended to read as follows:

"(7) [Reserved].".

SEC. 135. USE OF CONTRACT SUPPORT LEVELS.

Section 7(j)(10)(D) of the Small Business Act (15 U.S.C. 636(j)(10)(D)) is amended by adding at the end the following new clause:

"(v) The forecasts of overall business activity contained in the business plan of a Program Participant or the estimate contained

in the section 8(a) contract support level of such firm shall not be used by the Administration to make a determination that such firm is ineligible for the award of a contract to be awarded pursuant to section 8(a).".

SEC. 136. BUSINESS MIX REQUIREMENTS.

Section 7(j)(10) of the Small Business Act (15 U.S.C. 636(j)(10)) is amended—

(1) in subparagraph (D)—

(A) in clause (iii), by striking "contracts awarded" and inserting "contracts awarded noncompetitively"; and

(B) in clause (iv)(I), by striking "contracts awarded" and inserting "contracts awarded noncompetitively"; and

(2) in subparagraph (I)—

(A) in clause (i)—

(i) by striking "for contracts awarded other than pursuant to section 8(a)" and inserting "through contracts other than contracts awarded noncompetitively pursuant to section 8(a)"; and

(ii) by striking "will engage a" and inserting "will engage in a";

(B) in clause (iii)—

(i) by redesignating subclauses (II) through (V) as subclauses (III) through (VI), respectively;

(ii) by striking subclause (I) and inserting the following:

"(I) establish business activity targets applicable to Program Participants during each year of Program participation, which reflect a consistent increase in new contracts awarded other than pursuant to section 8(a), so that not more than 20 percent of the dollar value of the Program Participant's business base (as a percentage of total sales) at the beginning of the ninth year of Program participation is derived from contracts awarded pursuant to section 8(a);

"(II) provide that the business activity targets established pursuant to subclause (I) reflect that not more than 50 percent of the dollar value of the new contracts awarded during the fifth and succeeding years of Program Participation be awarded pursuant to section 8(a) on a noncompetitive basis;";

(iii) by striking subclause (IV), as redesignated, and inserting the following:

"(IV) require that a Program Participant in the transitional stage of Program participation certify compliance with its business activity targets (or with any program of remedial measures that may have been imposed pursuant to subclause (VI) for failing to attain such targets) to eligible for award of a contract pursuant to section 8(a);";

(iv) in subclause (V), as redesignated, by striking "and" at the end;

(v) by striking subclause (VI), as redesignated, and inserting the following:

"(VI) authorize the Administration to require a Program Participant that has failed to attain a business activity target to undertake a program of remedial measures designed to assist the firm to reduce its dependence on contracts awarded pursuant to section 8(a); and"; and

(vi) by adding at the end the following new subclause:

"(VII) authorize the Administration to limit the dollar volume of contracts awarded to the Program Participant pursuant to section 8(a), especially those awarded noncompetitively, if the firm has not made substantial progress toward attaining its business activity targets."; and

(C) by adding at the end the following new clause:

"(iv) Actions by the Administration relating to enforcing compliance with business activity targets shall not be reviewable pursuant to section 8(a)(19), unless such action is a termination from further Program participation.".

SEC. 137. ENCOURAGING SELF-MARKETING.

(a) ELIMINATION OF REGULATORY LIMITATIONS.—In accordance with the schedule for the issuance of revised regulations contained in section 601(a), the Administration shall promulgate such regulations as may be necessary to eliminate regulatory limitations on self-marketing by Program Participants, including limitations relating to so-called "National Buys" and "Local Buys".

(b) CONFORMING AMENDMENT.—Section 8(a)(11) of the Small Business Act (15 U.S.C. 637(a)(11)) is amended to read as follows:

"(11) [Reserved].".

SEC. 138. BUNDLING OF CONTRACTOR CAPABILITIES.

(a) IN GENERAL.—Section 8(a)(14) of the Small Business Act (15 U.S.C. 637(a)(14)) is amended to read as follows:

"(14)(A) Except as provided in subparagraph (B), a contract shall not be awarded pursuant to this subsection unless the small business concern complies with the requirements of section 15(o).

"(B)(i) Whenever the Administration determines that a proposed contract opportunity represents a bundling of contract requirements as defined by section 3(n), a Program Participant may propose a team of subcontractors meeting the requirements of clause (ii) without regard to the requirements of section 15(o) or regulations of the Administration regarding findings of affiliation or control, either direct or indirect.

"(ii) The subcontracting team proposed by a Program Participant may include—

"(I) other Program Participants;

"(II) other small business concerns;

"(III) business concerns other than small business concerns, whose aggregate participation may not represent more than 25 percent of the anticipated total value of the contract; and

"(IV) historically black colleges and universities and other minority institutions.".

(b) DEFINITION.—Section 3 of the Small Business Act (15 U.S.C. 632) is amended by adding at the end the following new subsection:

"(n) CONTRACT BUNDLING.—For purposes of contracting opportunities subject to sections 8(a) and 15, the terms 'contract bundling' and 'bundling of contract requirements' mean the practice of consolidating two or more procurement requirements of the type that were previously solicited and awarded as separate smaller contracts into a single large contract solicitation likely to be unsuitable for award to a small business concern due to—

"(1) the diversity and size of the elements of performance specified;

"(2) the aggregate dollar value of the anticipated award;

"(3) the geographical dispersion of the contract performance sites; or

"(4) any combination of the factors described in paragraphs (1), (2), and (3).".

(c) CONFORMING AMENDMENT.—Section 15(a) of the Small Business Act (15 U.S.C. 644(a)) is amended by striking "If a proposed procurement" and all that follows through "prime contract participation unlikely," and inserting the following: "If a proposed procurement represents a bundling of contract requirements, as defined in section 3(n),".

PART E—TRIBALLY OWNED CORPORATIONS

SEC. 141. MANAGEMENT AND CONTROL OF BUSINESS OPERATIONS.

Section 8(a)(4)(B)(ii) of the Small Business Act (15 U.S.C. 637(a)(4)(B)(ii)) is amended to read as follows:

"(ii) in the case of a tribally owned corporation, an individual designated by the Indian tribe (or the board of directors of a wholly owned entity of such tribe), who shall be a Native American if such individual is available; or".

SEC. 142. JOINT VENTURES.

(a) IN GENERAL.—Section 8(a)(15) of the Small Business Act (15 U.S.C. 637(a)(15)) is amended to read as follows:

"(15)(A) Except as provided in subparagraph (B), a contract may be awarded pursuant to this subsection to a joint venture owned and controlled by a Program Participant, notwithstanding the size status of such joint venture, if the Program Participant—

"(i) is owned and controlled by an Indian tribe;

"(ii) owns at least 51 percent of the joint venture;

"(iii) is located and performs most of its activities on the reservation of such Indian tribe; and

"(iv) employs members of such tribe for at least 50 percent of the work force of such joint venture.

"(B) A contract may not be awarded to a joint venture pursuant to subparagraph (A) if an Indian tribe owns and controls one or more Program Participants who are currently joint venturers on more than 5 contracts awarded pursuant to subparagraph (A).".

(b) DEFINITIONS.—

(1) INDIAN TRIBE.—Section 3 of the Small Business Act (15 U.S.C. 632) (as amended by section 139(b)) is amended by adding at the end the following new subsection:

"(o) INDIAN TRIBE.—For purposes of this Act, the term 'Indian tribe' means an Indian tribe, band, nation, or other organized group or community of Indians, including any Alaska Native village or regional or village corporation (as defined in section 3 of the Alaska Native Claims Settlement Act that—

"(1) is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians; or

"(2) is recognized as such by the State in which such tribe, band, nation, group, or community resides.".

(2) NATIVE HAWAIIAN ORGANIZATION.—Section 3 of the Small Business Act (15 U.S.C. 632) (as amended by paragraph (1)) is amended by adding at the end the following new subsection:

"(p) NATIVE HAWAIIAN ORGANIZATION.—For purposes of this Act, the term 'Native Hawaiian organization' means a community service organization serving Native Hawaiians in the State of Hawaii that is—

"(1) a not-for-profit organization chartered by the State of Hawaii;

"(2) controlled by Native Hawaiians; and

"(3) engaged in business activities that will principally benefit such Native Hawaiians.".

(3) CONFORMING AMENDMENT.—Section 8(a)(13) of the Small Business Act (15 U.S.C. 637(a)(13)) is amended to read as follows:

"(13) [Reserved].".

SEC. 143. RULE OF CONSTRUCTION REGARDING THE BUY INDIAN ACT.

A contract awarded pursuant to section 8(a) of the Small Business Act to a small business concern owned and controlled by members of an Indian tribe (or a wholly owned business entity of such tribe) shall be considered to be in compliance with section 23 of the Act of June 25, 1910 (25 U.S.C. 47).

PART F—CONTRACT ADMINISTRATION MATTERS

SEC. 151. ACCELERATED PAYMENT.

Section 8(a)(1) of the Small Business Act (15 U.S.C. 637(a)(1)) is amended by adding at the end the following new subparagraph:

"(E)(i) Any contract awarded pursuant to subparagraph (B) to a Program Participant in the developmental stage of the Program shall include a payment term requiring payment of any invoice, progress payment request, or other authorized request for payment, not later than 20 days after receipt of a proper invoice or other form of payment request.".

SEC. 152. EXPEDITED RESOLUTION OF CONTRACT ADMINISTRATION MATTERS.

Section 8(a)(1)(E) of the Small Business Act (15 U.S.C. 637(a)(1)(E)) (as added by section 151) is amended by adding at the end the following new clause:

"(ii)(I) A Federal agency awarding a contract under this subsection shall make every reasonable effort to respond in writing to any written request made to a contracting officer with respect to a matter relating to the administration of such contract, not later than 15 days of such request.

"(II) If the contracting officer is unable to reply before the expiration of the 15-day period described in subclause (I), the contracting officer shall transmit to the contractor within such period a written notification of a specific date by which the contracting officer expects to respond.

"(III) The provisions of this subparagraph do not apply to a request for a contracting officer's decision under the Contract Disputes Act of 1978 nor create any new rights pursuant to such Act.".

SEC. 153. AVAILABILITY OF ALTERNATIVE DISPUTE RESOLUTION.

Section 8(a)(1)(E) of the Small Business Act (15 U.S.C. 637(a)(1)(E)) (as amended by sections 151 and 152) is amended by adding at the end the following new clause:

"(iii)(I) Except as provided in subclause (II), an agency awarding a contract pursuant to subparagraph (B) shall make available, upon the request of a Program Participant, an alternative means of dispute resolution pursuant to subchapter IV of chapter 5, of title 5, United States Code.

"(II) In carrying out this clause, the agency need not provide an alternative dispute resolution procedure if the agency makes a written determination, supported by specific findings, citing one or more of the conditions in section 572(b) of title 5, United States Code, or such other specific reasons, that alternative dispute resolution procedures are inappropriate for the resolution of the dispute for which such procedures were sought under the contract.".

PART G—PROGRAM ADMINISTRATION

SEC. 161. SIMPLIFICATION OF ANNUAL REPORT TO CONGRESS.

Section 7(j)(16)(B)(v) of the Small Business Act (15 U.S.C. 636(j)(16)(B)(v)) is amended to read as follows:

"(v) The total dollar value of receipts received during the most recently completed program year from contracts awarded pursuant to section 8(a), and such amount expressed as a percentage of the total sales of—

"(I) all firms participating in the Program during the preceding fiscal year; and

"(II) firms in each of the 9 years of Program participation.".

SEC. 162. REDUCTION IN REPORTING BY PROGRAM PARTICIPANTS.

Section 8(a)(20)(A) of the Small Business Act (15 U.S.C. 637(a)(20)(A)) is amended by striking "semiannually report" and inserting "report, not less often than annually,".

TITLE II—CONTRACTING PROGRAM FOR CERTAIN SMALL BUSINESS CONCERNS

PART A—CIVILIAN AGENCIES PROGRAM

SEC. 201. PROCUREMENT PROCEDURES.

Section 8(c) of the Small Business Act (15 U.S.C. 637(c)) is amended to read as follows:

"(c) PROCUREMENT PROCEDURES.—

"(1) IN GENERAL.—For the purpose of attaining an agency's goal for the participation of small business concerns owned and controlled by socially and economically disadvantaged individuals pursuant to section 15(g)(1), the head of a participating executive agency may enter into contracts using—

"(A) less than full and open competition, by restricting the competition for such awards to small business concerns owned and controlled by socially and economically disadvantaged individuals as defined in subsection (d)(3)(C); and

"(B) a price evaluation preference, of not to exceed 10 percent, when evaluating an offer received from such a small business concern as the result of an unrestricted solicitation.

"(2) DEFINITION.—For the purposes of this subsection, the term 'participating executive agency' means a Federal agency, as defined in section 3(b), in the executive branch of the Federal Government, other than the Department of Defense.".

SEC. 202. IMPLEMENTATION THROUGH THE FEDERAL ACQUISITION REGULATION.

(a) IN GENERAL.—The Federal Acquisition Regulation shall be amended to provide uniform implementation by each executive agency choosing to participate in the program authorized in section 8(c) of the Small Business Act (as amended by section 201).

(b) MATTERS TO BE ADDRESSED.—The provisions of the Federal Acquisition Regulation prescribed pursuant to subsection (a) shall include—

(1) conditions for the use of advance payments;

(2) provisions for contract payment terms that provide for—

(A) accelerated payment for work performed during the period for contract performance; and

(B) full payment for work performed;

(3) guidance on how contracting officers may use, in solicitations for various classes of products or services, a price evaluation preference pursuant to section 8(c)(1)(B) of the Small Business Act (as amended by section 201) to provide a reasonable advantage to small business concerns owned and controlled by socially and economically disadvantaged individuals without effectively eliminating any participation of other small business concerns; and

(4)(A) procedures for a person to request the head of a Federal agency to determine whether the use of competitions restricted to small business concerns owned and controlled by socially and economically disadvantaged individuals at a contracting activity of such agency has caused a particular industry category to bear a disproportionate share of the contracts awarded to attain the goal established for that contracting activity; and

(B) guidance for limiting the use of such restricted competitions in the case of any contracting activity and class of contracts determined in accordance with such procedures to have caused a particular industry category to bear a disproportionate share of the contracts awarded to attain the goal established for that contracting activity.

SEC. 203. SUNSET.

The amendments made by section 201 shall cease to be effective on October 1, 2000.

PART B—ELIGIBILITY DETERMINATIONS REGARDING STATUS

SEC. 211. IMPROVED STATUS PROTEST SYSTEM.

Section 7(j)(10)(J) of the Small Business Act (15 U.S.C. 636(j)(10)(J)) is amended by striking clause (ii) and inserting the following new clauses:

"(ii) A protest may be brought regarding a self-certification by a business concern regarding its status as a small business concern owned and controlled by socially and economically disadvantaged individuals by—

"(I) another person with a direct economic interest in the award of the contract or subcontract under which such business has allegedly made the false certification regarding its status as a small business concern owned and controlled by socially and economically disadvantaged individuals;

"(II) a prime contractor receiving specific and credible information that an actual or prospective subcontractor or supplier has falsely certified its status as a small business concern owned and controlled by socially and economically disadvantaged individuals;

"(III) a contracting officer receiving a self-certification regarding an actual or prospective contractor's status, which such officer reasonably believes to be false; or

"(IV) the Associate Deputy Administrator for Minority Enterprise Development and Government Contracting of the Small Business Administration (or any successor position).

"(iii) The Office of Hearings and Appeals shall hear appeals regarding the status of a concern as a small business concern owned and controlled by socially and economically disadvantaged individuals for purposes of any program or activity conducted under section 8(d) or any other Federal law that refers to such section for a definition of program eligibility.

"(iv) A decision issued pursuant to clause (iii) shall—

"(I) be made available to all parties to the proceeding;

"(II) be published in full text; and

"(III) include findings of fact and conclusions of law, with specific reasons supporting such findings and conclusions, on each material issue of fact and law of decisional significance regarding the disposition of the protest.

"(v) A decision issued pursuant to clause (iii) shall be considered a final agency action, and shall be subject to judicial review under section 553 of title 5, United States Code.

"(vi) If a firm engages in a pattern of misrepresentations regarding the status of the firm in violation of section 16(d)(1), the Administration or the aggrieved executive agency shall initiate an action to impose an appropriate penalty under section 16(d)(2).".

SEC. 212. CONFORMING AMENDMENT.

Section 7(j)(11)(F) of the Small Business Act (15 U.S.C. 636(j)(11)(F)) is amended by—

(1) striking clause (vii); and

(2) redesignating clause (viii) as clause (vii).

TITLE III—EXPANDING SUBCONTRACTING OPPORTUNITIES

SEC. 301. EVALUATING SUBCONTRACT PARTICIPATION IN AWARDING CONTRACTS.

Section 8(d) of the Small Business Act (15 U.S.C. 637(d)) is amended—

(1) in paragraph (4), by striking subparagraphs (A) through (D) and inserting the following:

"(4)(A) Each solicitation for the award of a contract (or subcontract) with an anticipated value of $1,000,000, in the case of a contract for construction (including repair, alteration, or demolition of existing construction) or $500,000, in the case of a contract for all other types of services or supplies, that can reasonably be expected to offer opportunities for subcontracting, shall—

"(i) in the case of a Federal contract to be competitively awarded, include solicitation provisions described in subparagraph (B);

"(ii) in the case of a Federal contract to be noncompetitively awarded, require submission and acceptance of a subcontracting plan pursuant to subparagraph (C); and

"(iii) in the case of a subcontract award, require submission and acceptance of a subcontracting plan pursuant to subparagraph (D).

"(B) With respect to subcontract participation by small business concerns and small business concerns owned and controlled by socially and economically disadvantaged individuals, the solicitation shall—

"(i) specify minimum percentages for subcontract participation for an offer to be considered responsive whenever practicable;

"(ii) assign a weight of not less than the numerical equivalent of 5 percent of the total of all evaluation factors to a contract award evaluation factor that recognizes incrementally higher subcontract participation rates in excess of the minimum percentages;

"(iii) require the successful offeror to submit a subcontracting plan that incorporates the information described in paragraph (6); and

"(iv) assign a significant weight in any evaluation of past performance by the offerors in attaining subcontract participation goals.

"(C)(i) Each small business concern apparent successful offeror shall negotiate—

"(I) a goal for the participation of small business concerns and for the participation of small business concerns owned and controlled by socially and economically disadvantaged individuals; and

"(II) a plan for the attainment of the goals that incorporates the information prescribed in paragraph (6).

"(ii) The goals and plan shall reflect the maximum practicable opportunity for participation of small business concerns in the performance of the contract, considering the matters described in subparagraph (F)(iii). If, within the time limits prescribed in the Federal acquisition regulations, the apparent successful offeror fails to negotiate such a subcontracting plan, such offeror shall be ineligible for contract award.

"(D) An apparent subcontract awardee shall negotiate with the prime contractor (or higher-tier subcontractor) a goal for the participation of small business concerns and for the participation of small business concerns owned and controlled by socially and economically disadvantaged individuals, and a plan for the attainment of those goals which incorporates the information prescribed in paragraph (6). Such goals and plan shall reflect the maximum practicable opportunity for participation of such small business concerns in the performance of the contract, considering the matters described in subparagraph (F)(iii).";

(2) by striking paragraph (5) and inserting the following:

"(5) [Reserved].''; and

(3) in paragraph (6)—

(A) by redesignating subparagraphs (B) through (F) as subparagraphs (C) through (G), respectively; and

(B) by inserting the following new subparagraph (B):

"(B)(i) a listing of the small business subcontractors (including suppliers) who have actual or contingent awards for participation in the performance of the contract, identifying the work to be performed and the anticipated award value of the subcontracts; and

"(ii) assurances that the listing of small business subcontractors described in clause (i) will be regularly revised to identify firms that have been removed from or substituted for previously listed firms, and annotated to reflect the reasons for any removal or substitution;".

SEC. 302. SUBCONTRACTING GOALS FOR CERTAIN SMALL BUSINESS CONCERNS.

Section 8(d)(7) of the Small Business Act (15 U.S.C. 637(d)(7)) is amended to read as follows:

"(7)(A) Except as provided in subparagraph (B), paragraphs (4), (5), and (6) shall not apply to offerors who are small business concerns.

"(B) A small business concern owned and controlled by socially and economically disadvantaged individuals shall be required to negotiate a subcontracting plan for the use of emerging small business concerns owned and controlled by socially and economically disadvantaged individuals, if—

"(i) the prime contract was awarded pursuant to—

"(I) subsection (a) or (c) of section 8;

"(II) section 2323 of title 10, United States Code; or

"(III) any law that authorizes the award of a Federal contract as the result of a competition restricted to small business concerns owned and controlled by socially and economically disadvantaged individuals as defined in section 8(d)(3)(C);

"(ii) the anticipated total value of the contract exceeds $20,000,000; and

"(iii) subcontracting opportunities are expected.".

SEC. 303. SMALL BUSINESS PARTICIPATION GOALS.

Section 15(g)(1) of the Small Business Act (15 U.S.C. 644(g)(1)) is amended by striking "20 percent" and inserting "25 percent".

SEC. 304. IMPROVED NOTICE OF SUBCONTRACTING OPPORTUNITIES.

(a) USE OF THE COMMERCE BUSINESS DAILY AUTHORIZED.—Section 8 of the Small Business Act (15 U.S.C. 637) is amended by adding at the end the following new subsection:

"(k) NOTICES OF SUBCONTRACTING OPPORTUNITIES.—

"(1) IN GENERAL.—Notices of subcontracting opportunities may be submitted for publication in the Commerce Business Daily by—

"(A) a business concern awarded a contract by an executive agency subject to subsection (e)(1)(C); and

"(B) a business concern which is a subcontractor or supplier (at any tier) to a contractor required to have a subcontracting plan pursuant to subsection (d) having a subcontracting opportunity in excess of $100,000.

"(2) CONTENTS OF NOTICE.—The notice of a subcontracting opportunity shall include—

"(A) a description of the business opportunity that is comparable to the description specified in paragraphs (1), (2), (3), and (4) of subsection (f); and

"(B) the due date for the receipt of offers.".

(b) REGULATIONS REQUIRED.—The Federal Acquisition Regulation shall be amended to provide uniform implementation of the amendments made by this section.

(c) CONFORMING AMENDMENT.—Section 8(e)(1)(C) of the Small Business Act (15 U.S.C. 637(e)(1)(C)) is amended by striking "$25,000" each place it appears and inserting "$100,000".

TITLE IV—REPEALS AND TECHNICAL AMENDMENTS

PART A—REPEALS

SEC. 401. LOAN PROGRAM SUPERSEDED BY SECTION 7(a) LOAN PROGRAM.

(a) IN GENERAL.—Section 7(i) of the Small Business Act (15 U.S.C. 636(i)) is amended to read as follows:

"(i) [Reserved].".

(b) CONFORMING AMENDMENTS.—The Small Business Act (15 U.S.C. 601 et seq.) is amended—

(1) in section 2(d)(1), by striking "sections 7(i) and 7(j)" and inserting "section 7(j)";

(2) in section 4(c)(2), by striking "7(i),";

(3) in section 5(e)(3), by striking "sections 7(a)(4)(C) and 7(i)(1)" and inserting "section 7(a)(4)(C)";

(4) in section 7(j), by striking "sections 7(i), 7(j)(10), and 8(a)" each place it appears and inserting "paragraph (10) and section 8(a)"; and

(5) in section 7(k), by striking "sections 7(i), 7(j)(10), and 8(a)" and inserting "subsection (j)(10) and section 8(a)".

SEC. 402. SUPERSEDED LOAN PROGRAM RELATING TO ENERGY.

(a) IN GENERAL.—Section 7(*l*) of the Small Business Act (15 U.S.C. 636(l)) is amended to read as follows:

"(l) [Reserved].".

(b) CONFORMING AMENDMENTS.—Section 4(c)(2) of the Small Business Act (15 U.S.C. 601 et seq.) is amended by striking "7(l),".

SEC. 403. EMPLOYEE TRAINING PROGRAM OF LIMITED SCOPE.

Section 15(j)(13)(E) of the Small Business Act (15 U.S.C. 644(j)(13)(E)) is amended to read as follows:

"(E) [Reserved].".

SEC. 404. EXPIRED PROVISION.

Section 8(a)(2) of the Small Business Act (15 U.S.C. 637(a)(2)) is amended to read as follows:

"(2) [Reserved].".

SEC. 405. EXPIRED DIRECTION TO THE ADMINISTRATION.

Section 303(f) of the Business Opportunity Development Reform Act of 1988 (15 U.S.C. 637 note) is repealed.

PART B—TECHNICAL AMENDMENTS

SEC. 411. TECHNICAL AMENDMENTS.

The Small Business Act (15 U.S.C. 631 et seq.) is amended—

(1) in section 8(d)(10)(C) (15 U.S.C. 637(d)(10)(C)), by striking "in the case contractors" and inserting "in the case of contractors";

(2) in section 10—

(A) in subsection (a), by striking "the Senate Select Committee on Small Business"; and

(B) in subsection (b), by striking "to the Senate Select Committee on Small Business, and to the Committee on Small Business of the House of Representatives" and inserting "to the Committees on Small Business of the Senate and House of Representatives"; and

(3) in section 15(g)(1)—

(A) in the first sentence, by striking "The President" and inserting "(A) The President";

(B) by striking the second and third sentences and inserting the following:

"(B) The Governmentwide goals established pursuant to subparagraph (A) shall be—

"(i) for small business concerns, 20 percent of the total prime contracts for the fiscal year; and

"(ii) for small business concerns owned and controlled by socially and economically disadvantaged individuals, 8 percent of the total value of all prime contracts and subcontracts for the fiscal year.";

(C) in the fourth sentence, by striking "Notwithstanding the Government-wide goal" and inserting the following:

"(C) Notwithstanding the Governmentwide goal";

and

(D) in the fifth sentence, by striking "The Administration" and inserting the following:

"(D) The Administration".

TITLE V—DEFINITIONS

SEC. 501. HISTORICALLY UNDERUTILIZED BUSINESSES.

(a) DEFINITION.—Section 8(a)(4)(A) of the Small Business Act (15 U.S.C. 637(a)(4)(A)) is amended by striking "socially and economically disadvantaged small business concern" and inserting "historically underutilized business".

(b) TECHNICAL AMENDMENT.—Section 9(j)(2)(F) of the Small Business Act (15 U.S.C. 638(j)(2)(F)) is amended by striking "socially and economically disadvantaged small business concerns, as defined in section 8(a)(A)" and inserting "small business concerns owned and controlled by socially and economically disadvantaged individuals".

SEC. 502. EMERGING SMALL BUSINESS CONCERN.

(a) IN GENERAL.—Section 3 of the Small Business Act (15 U.S.C. 631) is amended by adding at the end the following new subsection:

"(q) EMERGING SMALL BUSINESS CONCERN.—For purposes of sections 8 and 15, the term 'emerging small business concern' means a small business concern the size of which is less than or equal to 25 percent of the numerical size standard for—

"(1) in the case of a contracting opportunity being awarded by the Government, the standard industrial classification code assigned by a contracting officer; or

"(2) in all other cases, the standard industrial classification that encompasses the principal line of business of the business concern.".

(b) DELAYED APPLICABILITY TO THE SMALL BUSINESS COMPETITIVENESS DEMONSTRATION PROGRAM.—For the purposes of the Small Business Competitiveness Demonstration Program, the amendment made by subsection (a) shall not supersede the definition of "emerging small business concern" provided in section 718(b) of the Small Business Competitiveness Demonstration Program Act of 1988.

TITLE VI—REGULATORY IMPLEMENTATION AND EFFECTIVE DATES

PART A—ASSURING TIMELY REGULATORY IMPLEMENTATION

SEC. 601. DEADLINES FOR ISSUANCE OF REGULATIONS.

(a) PROPOSED REGULATIONS.—Proposed amendments to the Federal Acquisition Regulation or proposed Small Business Administration regulations shall be published not later than 120 days after the date of enactment of this Act for the purpose of obtaining public comment pursuant to either section 22 of the Office of Federal Procurement Policy Act or chapter 5 of title 5, United States Code, as appropriate. The public shall be afforded not less than 60 days to submit comments.

(b) FINAL REGULATIONS.—Final regulations shall be published and become effective not later than 270 days after the date of enactment of this Act.

SEC. 602. REGULATORY IMPLEMENTATION OF PRIOR LEGISLATION.

(a) PROPOSED REGULATIONS.—Proposed amendments to the Federal Acquisition Regulation or the Small Business Administration regulations pertaining to the statutory provisions listed in subsection (c) shall be published not later than 30 days after the date of enactment of this Act for the purpose of obtaining public comment pursuant to either section 22 of the Office of Federal Procurement Policy Act or chapter 5 of title 5, United States Code, as appropriate. The public shall be afforded not less than 60 days to submit comments.

(b) FINAL REGULATIONS.—Final regulations implementing the amendments made by this Act shall be published and shall take effect not later than 120 days after the date of enactment of this Act.

(c) DELAYED REGULATIONS.—

(1) Section 203 of the Small Business Administration Reauthorization and Amendments Act of 1990 (15 U.S.C. 637 note; 104 Stat. 2818).

(2) Section 221 of the Small Business Credit and Business Opportunity Enhancement Act of 1992 (15 U.S.C. 636 note; 106 Stat. 999).

(3) Section 222 of the Small Business Credit and Business Opportunity Enhancement Act of 1992 (15 U.S.C. 632 note; 106 Stat. 999).

PART B—EFFECTIVE DATES

SEC. 611. EFFECTIVE DATES.

(a) EFFECTIVE DATE OF ACT.—Except as provided in subsection (b), this Act shall take effect on the date of the enactment of this Act.

(b) AMENDMENTS REQUIRING IMPLEMENTING REGULATIONS.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this Act which require the issuance of regulations shall take effect on the date on which final implementing regulations are prescribed in accordance with section 601.

(2) EXCEPTIONS.—The amendments made by sections 101, 102, 111, 112, 114, 115, 122, 133, 134, 135, 136, 138, 141, 142, 143, 161, 162, and 211 shall take effect on the date of enactment of this Act.

SURPLUS PERSONAL PROPERTY DONATION

The text of the bill (H.R. 2461) to amend the Federal Property and Administrative Services Act of 1949 to authorize the transfer to States of surplus personal property for donation to nonprofit providers of necessaries to impoverished families and individuals, as passed by the Senate on October 7, 1994, is as follows:

H.R. 2461

Resolved, That the bill from the House of Representatives (H.R. 2461) entitled "An Act to amend the Federal Property and Administrative Services Act of 1949 to authorize the transfer to States of surplus personal property for donation to nonprofit providers of necessaries to impoverished families and individuals", do pass with the following amendment:

Page 2, after line 11, insert:

TITLE I—PAPERWORK REDUCTION

SEC. 101. SHORT TITLE.

This title may be cited as the "Paperwork Reduction Act of 1994".

SEC. 102. COORDINATION OF FEDERAL INFORMATION POLICY.

Chapter 35 of title 44, United States Code, is amended to read as follows:

"CHAPTER 35—COORDINATION OF FEDERAL INFORMATION POLICY

"§3501. Purposes

"The purposes of this chapter are to—

"(1) minimize the paperwork burden for individuals, small businesses, educational and nonprofit institutions, Federal contractors, State, local and tribal governments, and other persons resulting from the collection of information by or for the Federal Government;

"(2) ensure the greatest possible public benefit from and maximize the utility of information created, collected, maintained, used, shared and disseminated by or for the Federal Government;

"(3) coordinate, integrate, and to the extent practicable and appropriate, make uniform Federal information resources management policies and practices as a means to improve the productivity, efficiency, and effectiveness of Government programs, including the reduction of information collection burdens on the public and the improvement of service delivery to the public;

"(4) improve the quality and use of Federal information to strengthen decisionmaking, accountability, and openness in Government and society;

"(5) minimize the cost to the Federal Government of the creation, collection, maintenance, use, dissemination, and disposition of information;

"(6) strengthen the partnership between the Federal Government and State, local, and tribal governments by minimizing the burden and maximizing the utility of information created, collected, maintained, used, disseminated, and retained by or for the Federal Government;

"(7) provide for the dissemination of public information on a timely basis, on equitable terms, and in a manner that promotes the utility of the information to the public and makes effective use of information technology;

"(8) ensure that the creation, collection, maintenance, use, dissemination, and disposition of information by or for the Federal Government is consistent with applicable laws, including laws relating to—

"(A) privacy and confidentiality, including section 552a of title 5;

"(B) security of information, including the Computer Security Act of 1987 (Public Law 100–235); and

"(C) access to information, including section 552 of title 5;

"(9) ensure the integrity, quality, and utility of the Federal statistical system;

"(10) ensure that information technology is acquired, used, and managed to improve performance of agency missions, including the reduction of information collection burdens on the public; and

"(11) improve the responsibility and accountability of the Office of Management and Budget and all other Federal agencies to Congress and to the public for implementing the information collection review process, information resources management, and related policies and guidelines established under this chapter.

"§3502. Definitions

"As used in this chapter—

"(1) the term 'agency' means any executive department, military department, Government corporation, Government controlled corporation, or other establishment in the executive branch of the Government (including the Executive Office of the President), or any independent regulatory agency, but does not include—

"(A) the General Accounting Office;

"(B) Federal Election Commission;

"(C) the governments of the District of Columbia and of the territories and possessions of the United States, and their various subdivisions; or

"(D) Government-owned contractor-operated facilities, including laboratories engaged in national defense research and production activities;

"(2) the term 'burden' means time, effort, or financial resources expended by persons to generate, maintain, or provide information to or for a Federal agency, including the resources expended for—

"(A) reviewing instructions;

"(B) acquiring, installing, and utilizing technology and systems;

"(C) adjusting the existing ways to comply with any previously applicable instructions and requirements;

"(D) searching data sources;

"(E) completing and reviewing the collection of information; and

"(F) transmitting, or otherwise disclosing the information;

"(3) the term 'collection of information' means the obtaining, causing to be obtained, soliciting, or requiring the disclosure to third parties or the public, of facts or opinions by or for an agency, regardless of form or format, calling for either—

"(A) answers to identical questions posed to, or identical reporting or recordkeeping requirements imposed on, ten or more persons, other than agencies, instrumentalities, or employees of the United States; or

"(B) answers to questions posed to agencies, instrumentalities, or employees of the United States which are to be used for general statistical purposes;

"(4) the term 'Director' means the Director of the Office of Management and Budget;

"(5) the term 'independent regulatory agency' means the Board of Governors of the Federal Reserve System, the Commodity Futures Trading Commission, the Consumer Product Safety Commission, the Federal Communications Commission, the Federal Deposit Insurance Corporation, the Federal Energy Regulatory Commission, the Federal Housing Finance Board, the Federal Maritime Commission, the Federal Trade Commission, the Interstate Commerce Commission, the Mine Enforcement Safety and Health Review Commission, the National Labor Relations Board, the Nuclear Regulatory Commission, the Occupational Safety and Health Review Commission, the Postal Rate Commission, the Securities and Exchange Commission, and any other similar agency designated by statute as a Federal independent regulatory agency or commission;

"(6) the term 'information resources' means information and related resources, such as personnel, equipment, funds, and information technology;

"(7) the term 'information resources management' means the process of managing information resources to accomplish agency missions and to improve agency performance, including through the reduction of information collection burdens on the public;

"(8) the term 'information system' means a discrete set of information resources and processes, automated or manual, organized for the collection, processing, maintenance, use, sharing, dissemination, or disposition of information;

"(9) the term 'information technology' has the same meaning as the term 'automatic data processing equipment' as defined by section 111(a)(2) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 759(a)(2));

"(10) the term 'person' means an individual, partnership, association, corporation, business trust, or legal representative, an organized group of individuals, a State, territorial, or local government or branch thereof, or a political subdivision of a State, territory, or local government or a branch of a political subdivision;

"(11) the term 'practical utility' means the ability of an agency to use information, particularly the capability to process such information in a timely and useful fashion;

"(12) the term 'public information' means any information, regardless of form or format, that an agency discloses, disseminates, or makes available to the public; and

"(13) the term 'recordkeeping requirement' means a requirement imposed by or for an agency on persons to maintain specified records.

"§3503. Office of Information and Regulatory Affairs

"(a) There is established in the Office of Management and Budget an office to be known as the Office of Information and Regulatory Affairs.

"(b) There shall be at the head of the Office an Administrator who shall be appointed by the President, by and with the advice and consent of the Senate. The Director shall delegate to the Administrator the authority to administer all functions under this chapter, except that any such delegation shall not relieve the Director of responsibility for the administration of such functions. The Administrator shall serve as principal adviser to the Director on Federal information resources management policy.

"(c) The Administrator and employees of the Office of Information and Regulatory Affairs shall be appointed with special attention to professional qualifications required to administer the functions of the Office described under this chapter. Such qualifications shall include relevant education, work experience, or related professional activities.

"§3504. Authority and functions of Director

"(a)(1) The Director shall oversee the use of information resources to improve the efficiency and effectiveness of governmental operations to serve agency missions, including service delivery to the public. In performing such oversight, the Director shall—

"(A) develop, coordinate and oversee the implementation of Federal information resources management policies, principles, standards, and guidelines; and

"(B) provide direction and oversee—

"(i) the review of the collection of information and the reduction of the information collection burden;

"(ii) agency dissemination of and public access to information;

"(iii) statistical activities;

"(iv) records management activities;

"(v) privacy, confidentiality, security, disclosure, and sharing of information; and

"(vi) the acquisition and use of information technology.

"(2) The authority of the Director under this chapter shall be exercised consistent with applicable law.

"(b) With respect to general information resources management policy, the Director shall—

"(1) develop and oversee the implementation of uniform information resources management policies, principles, standards, and guidelines;

"(2) foster greater sharing, dissemination, and access to public information, including through—

"(A) the use of the Government Information Locator Service; and

"(B) the development and utilization of common standards for information collection, storage, processing and communication, including standards for security, interconnectivity and interoperability;

"(3) initiate and review proposals for changes in legislation, regulations, and agency procedures to improve information resources management practices;

"(4) oversee the development and implementation of best practices in information resources management, including training; and

"(5) oversee agency integration of program and management functions with information resources management functions.

"(c) With respect to the collection of information and the control of paperwork, the Director shall—

"(1) review proposed agency collections of information, and in accordance with section 3508, determine whether the collection of information by or for an agency is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility;

"(2) coordinate the review of the collection of information associated with Federal procurement and acquisition by the Office of Information and Regulatory Affairs with the Office of Federal Procurement Policy, with particular emphasis on applying information technology to improve the efficiency and effectiveness of Federal procurement and acquisition and to reduce information collection burdens on the public;

"(3) minimize the Federal information collection burden, with particular emphasis on those individuals and entities most adversely affected;

"(4) maximize the practical utility of and public benefit from information collected by or for the Federal Government; and

"(5) establish and oversee standards and guidelines by which agencies are to estimate the burden to comply with a proposed collection of information.

"(d) With respect to information dissemination, the Director shall develop and oversee the implementation of policies, principles, standards, and guidelines to—

"(1) apply to Federal agency dissemination of public information, regardless of the form or format in which such information is disseminated; and

"(2) promote public access to public information and fulfill the purposes of this chapter, including through the effective use of information technology.

"(e) With respect to statistical policy and coordination, the Director shall—

"(1) coordinate the activities of the Federal statistical system to ensure—

"(A) the efficiency and effectiveness of the system; and

"(B) the integrity, objectivity, impartiality, utility, and confidentiality of information collected for statistical purposes;

"(2) ensure that budget proposals of agencies are consistent with system-wide priorities for maintaining and improving the quality of Federal statistics and prepare an annual report on statistical program funding;

"(3) develop and oversee the implementation of Governmentwide policies, principles, standards, and guidelines concerning—

"(A) statistical collection procedures and methods;

"(B) statistical data classification;

"(C) statistical information presentation and dissemination;

"(D) timely release of statistical data; and

"(E) such statistical data sources as may be required for the administration of Federal programs;

"(4) evaluate statistical program performance and agency compliance with Governmentwide policies, principles, standards and guidelines;

"(5) promote the sharing of information collected for statistical purposes consistent with privacy rights and confidentiality pledges;

"(6) coordinate the participation of the United States in international statistical activities, including the development of comparable statistics;

"(7) appoint a chief statistician who is a trained and experienced professional statistician to carry out the functions described under this subsection;

"(8) establish an Interagency Council on Statistical Policy to advise and assist the Director in carrying out the functions under this subsection that shall—

"(A) be headed by the chief statistician; and

"(B) consist of—

"(i) the heads of the major statistical programs; and

"(ii) representatives of other statistical agencies under rotating membership; and

"(9) provide opportunities for training in statistical policy functions to employees of the Federal Government under which—

"(A) each trainee shall be selected at the discretion of the Director based on agency requests and shall serve under the chief statistician for at least 6 months and not more than 1 year; and

"(B) all costs of the training shall be paid by the agency requesting training.

"(f) With respect to records management, the Director shall—

"(1) provide advice and assistance to the Archivist of the United States and the Administrator of General Services to promote coordination in the administration of chapters 29, 31, and 33 of this title with the information resources management policies, principles, standards, and guidelines established under this chapter;

"(2) review compliance by agencies with—

"(A) the requirements of chapters 29, 31, and 33 of this title; and

"(B) regulations promulgated by the Archivist of the United States and the Administrator of General Services; and

"(3) oversee the application of records management policies, principles, standards, and guidelines, including requirements for archiving information maintained in electronic format, in the planning and design of information systems.

"(g) With respect to privacy and security, the Director shall—

"(1) develop and oversee the implementation of policies, principles, standards, and guidelines on privacy, confidentiality, security, disclosure and sharing of information collected or maintained by or for agencies;

"(2) oversee and coordinate compliance with sections 552 and 552a of title 5, the Computer Security Act of 1987 (40 U.S.C. 759 note), and related information management laws; and

"(3) require Federal agencies, consistent with the Computer Security Act of 1987 (40 U.S.C. 759 note), to identify and afford security protections commensurate with the risk and magnitude of the harm resulting from the loss, misuse, or unauthorized access to or modification of information collected or maintained by or on behalf of an agency.

"(h) With respect to Federal information technology, the Director shall—

"(1) in consultation with the Director of the National Institute of Standards and Technology and the Administrator of General Services—

"(A) develop and oversee the implementation of policies, principles, standards, and guidelines for information technology functions and activities of the Federal Government, including periodic evaluations of major information systems; and

"(B) oversee the development and implementation of standards under section 111(d) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 759(d));

"(2) monitor the effectiveness of, and compliance with, directives issued under sections 110 and 111 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 757 and 759) and review proposed determinations under section 111(e) of such Act;

"(3) coordinate the development and review by the Office of Information and Regulatory Affairs of policy associated with Federal procurement and acquisition of information technology with the Office of Federal Procurement Policy;

"(4) ensure, through the review of agency budget proposals, information resources management plans and other means—

"(A) agency integration of information resources management plans, program plans and budgets for acquisition and use of information technology; and

"(B) the efficiency and effectiveness of interagency information technology initiatives to improve agency performance and the accomplishment of agency missions; and

"(5) promote the use of information technology by the Federal Government to improve the productivity, efficiency, and effectiveness of Federal programs, including through dissemination of public information and the reduction of information collection burdens on the public.

"§3505. Assignment of tasks and deadlines

"In carrying out the functions under this chapter, the Director shall—

"(1) in consultation with agency heads, set an annual Governmentwide goal for the reduction of information collection burdens by at least five percent, and set annual agency goals to—

"(A) reduce information collection burdens imposed on the public that—

"(i) represent the maximum practicable opportunity in each agency; and

"(ii) are consistent with improving agency management of the process for the review of collections of information established under section 3506(c); and

"(B) improve information resources management in ways that increase the productivity, efficiency and effectiveness of Federal programs, including service delivery to the public;

"(2) with selected agencies and non-Federal entities on a voluntary basis, conduct pilot projects to test alternative policies, practices, regulations, and procedures to fulfill the purposes of this chapter, particularly with regard to minimizing the Federal information collection burden;

"(3) in consultation with the Administrator of General Services, the Director of the National Institute of Standards and Technology, the Archivist of the United States, and the Director of the Office of Personnel Management, develop and maintain a Governmentwide strategic plan for information resources management, that shall include—

"(A) a description of the objectives and the means by which the Federal Government shall apply information resources to improve agency and program performance;

"(B) plans for—

"(i) reducing information burdens on the public, including reducing such burdens through the elimination of duplication and meeting shared data needs with shared resources;

"(ii) enhancing public access to and dissemination of, information, using electronic and other formats; and

"(iii) meeting the information technology needs of the Federal Government in accordance with the requirements of sections 110 and 111 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 757 and 759), and the purposes of this chapter; and

"(C) a description of progress in applying information resources management to improve agency performance and the accomplishment of missions; and

"(4) in cooperation with the Administrator of General Services, issue guidelines for the establishment and operation in each agency of a process, as required under section 3506(h)(5) of this chapter, to review major information systems initiatives, including acquisition and use of information technology.

"§3506. Federal agency responsibilities

"(a)(1) The head of each agency shall be responsible for—

"(A) carrying out the agency's information resources management activities to improve agency productivity, efficiency, and effectiveness; and

"(B) complying with the requirements of this chapter and related policies established by the Director.

"(2)(A) Except as provided under subparagraph (B), the head of each agency shall designate a senior official who shall report directly to such agency head to carry out the responsibilities of the agency under this chapter.

"(B) The Secretary of the Department of Defense and the Secretary of each military department may each designate a senior official who shall report directly to such Secretary to carry out the responsibilities of the department under this chapter. If more than one official is designated for the military departments, the respective duties of the officials shall be clearly delineated.

"(3) The senior official designated under paragraph (2) shall head an office responsible for ensuring agency compliance with and prompt, efficient, and effective implementation of the information policies and information resources management responsibilities established under this chapter, including the reduction of information collection burdens on the public. The senior official and employees of such office shall be selected with special attention to the professional qualifications required to administer the functions described under this chapter.

"(4) Each agency program official shall be responsible and accountable for information resources assigned to and supporting the programs under such official. In consultation with the senior official designated under paragraph (2) and the agency Chief Financial Officer (or comparable official), each agency program official shall define program information needs and develop strategies, systems, and capabilities to meet those needs.

"(5) The head of each agency shall establish a permanent information resources management steering committee, which shall be chaired by the senior official designated under paragraph (2) and shall include senior program officials and the Chief Financial Officer (or comparable official). Each steering committee shall—

"(A) assist and advise the head of the agency in carrying out information resources management responsibilities of the agency;

"(B) assist and advise the senior official designated under paragraph (2) in the establishment of performance measures for information resources management that relate to program missions;

"(C) select, control, and evaluate all major information system initiatives (including acquisitions of information technology) in accordance with the requirements of subsection (h)(5); and

"(D) identify opportunities to redesign business practices and supporting information systems to improve agency performance.

"(b) With respect to general information resources management, each agency shall—

"(1) develop information systems, processes, and procedures to—

"(A) reduce information collection burdens on the public;

"(B) increase program efficiency and effectiveness; and

"(C) improve the integrity, quality, and utility of information to all users within and outside the agency, including capabilities for ensuring dissemination of public information, public access to government information, and protections for privacy and security;

"(2) in accordance with guidance by the Director, develop and maintain a strategic information resources management plan that shall describe how information resources management activities help accomplish agency missions;

"(3) develop and maintain an ongoing process to—

"(A) ensure that information resources management operations and decisions are integrated with organizational planning, budget, financial management, human resources management, and program decisions;

"(B) develop and maintain an integrated, comprehensive and controlled process of information systems selection, development, and evaluation;

"(C) in cooperation with the agency Chief Financial Officer (or comparable official), develop a full and accurate accounting of information technology expenditures, related expenses, and results; and

"(D) establish goals for improving information resources management's contribution to program productivity, efficiency, and effectiveness, methods for measuring progress towards those goals, and clear roles and responsibilities for achieving those goals;

"(4) in consultation with the Director, the Administrator of General Services, and the Archivist of the United States, maintain a current and complete inventory of the agency's information resources, including directories necessary to fulfill the requirements of section 3511 of this chapter; and

"(5) in consultation with the Director and the Director of the Office of Personnel Management, conduct formal training programs to educate agency program and management officials about information resources management.

"(c) With respect to the collection of information and the control of paperwork, each agency shall—

"(1) establish a process within the office headed by the official designated under subsection (a), that is sufficiently independent of program responsibility to evaluate fairly whether proposed collections of information should be approved under this chapter, to—

"(A) review each collection of information before submission to the Director for review under this chapter, including—

"(i) an evaluation of the need for the collection of information;

"(ii) a functional description of the information to be collected;

"(iii) a plan for the collection of the information;

"(iv) a specific, objectively supported estimate of burden;

"(v) a test of the collection of information through a pilot program, if appropriate; and

"(vi) a plan for the efficient and effective management and use of the information to be collected, including necessary resources;

"(B) ensure that each information collection—

"(i) is inventoried, displays a control number and, if appropriate, an expiration date;

"(ii) indicates the collection is in accordance with the clearance requirements of section 3507; and

"(iii) contains a statement to inform the person receiving the collection of information—

"(I) the reasons the information is being collected;

"(II) the way such information is to be used;

"(III) an estimate, to the extent practicable, of the burden of the collection; and

"(IV) whether responses to the collection of information are voluntary, required to obtain a benefit, or mandatory; and

"(C) assess the information collection burden of proposed legislation affecting the agency;

"(2)(A) except as provided under subparagraph (B), provide 60-day notice in the Federal Register, and otherwise consult with members of the public and affected agencies concerning each proposed collection of information, to solicit comment to—

"(i) evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility;

"(ii) evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information;

"(iii) enhance the quality, utility, and clarity of the information to be collected; and

"(iv) minimize the burden of the collection of information on those who are to respond, including through the use of automated collection techniques or other forms of information technology; and

"(B) for any proposed collection of information contained in a proposed rule (to be reviewed by the Director under section 3507(d)), provide notice and comment through the notice of proposed rulemaking for the proposed rule and such notice shall have the same purposes specified under subparagraph (A) (i) through (iv); and

"(3) certify (and provide a record supporting such certification, including public comments received by the agency) that each collection of information submitted to the Director for review under section 3507—

"(A) is necessary for the proper performance of the functions of the agency, including that the information has practical utility;

"(B) is not unnecessarily duplicative of information otherwise reasonably accessible to the agency;

"(C) reduces to the extent practicable and appropriate the burden on persons who shall provide information to or for the agency, including with respect to small entities, as defined under section 601(6) of title 5, the use of such techniques as—

"(i) establishing differing compliance or reporting requirements or timetables that take into account the resources available to those who are to respond;

"(ii) the clarification, consolidation, or simplification of compliance and reporting requirements; or

"(iii) an exemption from coverage of the collection of information, or any part thereof;

"(D) is written using plain, coherent, and unambiguous terminology and is understandable to those who are to respond;

"(E) is to be implemented in ways consistent and compatible, to the maximum extent practicable, with the existing reporting and recordkeeping practices of those who are to respond;

"(F) contains the statement required under paragraph (1)(B)(iii);

"(G) has been developed by an office that has planned and allocated resources for the efficient and effective management and use of the information to be collected, including the processing of the information in a manner which shall enhance, where appropriate, the utility of the information to agencies and the public;

"(H) uses effective and efficient statistical survey methodology appropriate to the purpose for which the information is to be collected; and

"(I) to the maximum extent practicable, uses information technology to reduce burden and improve data quality, agency efficiency and responsiveness to the public.

"(d) With respect to information dissemination, each agency shall—

"(1) ensure that the public has timely and equitable access to the agency's public information, including ensuring such access through—

"(A) encouraging a diversity of public and private sources for information based on government public information, and

"(B) agency dissemination of public information in an efficient, effective, and economical manner;

"(2) regularly solicit and consider public input on the agency's information dissemination activities; and

"(3) not, except where specifically authorized by statute—

"(A) establish an exclusive, restricted, or other distribution arrangement that interferes with timely and equitable availability of public information to the public;

"(B) restrict or regulate the use, resale, or redissemination of public information by the public;

"(C) charge fees or royalties for resale or redissemination of public information; or

"(D) establish user fees for public information that exceed the cost of dissemination.

"(e) With respect to statistical policy and coordination, each agency shall—

"(1) ensure the relevance, accuracy, timeliness, integrity, and objectivity of information collected or created for statistical purposes;

"(2) inform respondents fully and accurately about the sponsors, purposes, and uses of statistical surveys and studies;

"(3) protect respondents' privacy and ensure that disclosure policies fully honor pledges of confidentiality;

"(4) observe Federal standards and practices for data collection, analysis, documentation, sharing, and dissemination of information;

"(5) ensure the timely publication of the results of statistical surveys and studies, including information about the quality and limitations of the surveys and studies; and

"(6) make data available to statistical agencies and readily accessible to the public.

"(f) With respect to records management, each agency shall implement and enforce applicable policies and procedures, including requirements for archiving information maintained in electronic format, particularly in the planning, design and operation of information systems.

"(g) With respect to privacy and security, each agency shall—

"(1) implement and enforce applicable policies, procedures, standards, and guidelines on privacy, confidentiality, security, disclosure and sharing of information collected or maintained by or for the agency;

"(2) assume responsibility and accountability for compliance with and coordinated management of sections 552 and 552a of title 5, the Computer Security Act of 1987 (40 U.S.C. 759 note), and related information management laws; and

"(3) consistent with the Computer Security Act of 1987 (40 U.S.C. 759 note), identify and afford security protections commensurate with the risk and magnitude of the harm resulting from the loss, misuse, or unauthorized access to or modification of information collected or maintained by or on behalf of an agency.

"(h) With respect to Federal information technology, each agency shall—

"(1) implement and enforce applicable Governmentwide and agency information technology management policies, principles, standards, and guidelines;

"(2) assume responsibility and accountability for any acquisitions made pursuant to a delegation of authority under section 111 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 759);

"(3) promote the use of information technology by the agency to improve the productivity, efficiency, and effectiveness of agency programs, including the reduction of information collection burdens on the public and improved dissemination of public information;

"(4) propose changes in legislation, regulations, and agency procedures to improve information technology practices, including changes that improve the ability of the agency to use technology to reduce burden; and

"(5) establish, and be responsible for, a major information system initiative review process, which shall be developed and implemented by the information resources management steering committee established under subsection (a)(5), consistent with guidelines issued under section 3505(4), and include—

"(A) the review of major information system initiative proposals and projects (including acquisitions of information technology), approval or disapproval of each such initiative, and periodic reviews of the development and implementation of such initiatives, including whether the projected benefits have been achieved;

"(B) the use by the committee of specified evaluative techniques and criteria to—

"(i) assess the economy, efficiency, effectiveness, risks, and priority of system initiatives in relation to mission needs and strategies;

"(ii) estimate and verify life-cycle system initiative costs; and

"(iii) assess system initiative privacy, security, records management, and dissemination and access capabilities;

"(C) the use, as appropriate, of independent cost evaluations of data developed under subparagraph (B); and

"(D) the inclusion of relevant information about approved initiatives in the agency's annual budget request.

"§3507. Public information collection activities; submission to Director; approval and delegation

"(a) An agency shall not conduct or sponsor the collection of information unless in advance of the adoption or revision of the collection of information—

"(1) the agency has—

"(A) conducted the review established under section 3506(c)(1);

"(B) evaluated the public comments received under section 3506(c)(2);

"(C) submitted to the Director the certification required under section 3506(c)(3), the proposed collection of information, copies of pertinent statutory authority, regulations, and other related materials as the Director may specify; and

"(D) published a notice in the Federal Register—

"(i) stating that the agency has made such submission; and

"(ii) setting forth—

"(I) a title for the collection of information;

"(II) a summary of the collection of information;

"(III) a brief description of the need for the information and the proposed use of the information;

"(IV) a description of the likely respondents and proposed frequency of response to the collection of information;

"(V) an estimate of the burden that shall result from the collection of information; and

"(VI) notice that comments may be submitted to the agency and Director;

"(2) the Director has approved the proposed collection of information or approval has been inferred, under the provisions of this section; and

"(3) the agency has obtained from the Director a control number to be displayed upon the collection of information.

"(b) The Director shall provide at least 30 days for public comment prior to making a decision under subsection (c), (d), or (h), except as provided under subsection (j).

"(c)(1) For any proposed collection of information not contained in a proposed rule, the Director shall notify the agency involved of the decision to approve or disapprove the proposed collection of information.

"(2) The Director shall provide the notification under paragraph (1), within 60 days after receipt or publication of the notice under subsection (a)(1)(D), whichever is later.

"(3) If the Director does not notify the agency of a denial or approval within the 60-day period described under paragraph (2)—

"(A) the approval may be inferred;

"(B) a control number shall be assigned without further delay; and

"(C) the agency may collect the information for not more than 2 years.

"(d)(1) For any proposed collection of information contained in a proposed rule—

"(A) as soon as practicable, but no later than the date of publication of a notice of proposed rulemaking in the Federal Register, each agency shall forward to the Director a copy of any proposed rule which contains a collection of information and any information requested by the Director necessary to make the determination required under this subsection; and

"(B) within 60 days after the notice of proposed rulemaking is published in the Federal Register, the Director may file public comments pursuant to the standards set forth in section 3508 on the collection of information contained in the proposed rule;

"(2) When a final rule is published in the Federal Register, the agency shall explain—

"(A) how any collection of information contained in the final rule responds to the comments, if any, filed by the Director or the public; or

"(B) the reasons such comments were rejected.

"(3) If the Director has received notice and failed to comment on an agency rule within 60 days after the notice of proposed rulemaking, the Director may not disapprove any collection of information specifically contained in an agency rule.

"(4) No provision in this section shall be construed to prevent the Director, in the Director's discretion—

"(A) from disapproving any collection of information which was not specifically required by an agency rule;

"(B) from disapproving any collection of information contained in an agency rule, if the agency failed to comply with the requirements of paragraph (1) of this subsection;

"(C) from disapproving any collection of information contained in a final agency rule, if the Director finds within 60 days after the publication of the final rule that the agency's response to the Director's comments filed under paragraph (2) of this subsection was unreasonable; or

"(D) from disapproving any collection of information contained in a final rule, if—

"(i) the Director determines that the agency has substantially modified in the final rule the collection of information contained in the proposed rule; and

"(ii) the agency has not given the Director the information required under paragraph (1) with respect to the modified collection of information, at least 60 days before the issuance of the final rule.

"(5) This subsection shall apply only when an agency publishes a notice of proposed rulemaking and requests public comments.

"(6) The decision by the Director to approve or not act upon a collection of information contained in an agency rule shall not be subject to judicial review.

"(e)(1) Any decision by the Director under subsection (c), (d), (h), or (j) to disapprove a collection of information, or to instruct the agency to make substantive or material change to a collection of information, shall be publicly available and include an explanation of the reasons for such decision.

"(2) Any written communication between the Office of the Director, the Administrator of the Office of Information and Regulatory Affairs, or any employee of the Office of Information and Regulatory Affairs and an agency or person not employed by the Federal Government concerning a proposed collection of information shall be made available to the public.

"(3) This subsection shall not require the disclosure of—

"(A) any information which is protected at all times by procedures established for information which has been specifically authorized under criteria established by an Executive order or an Act of Congress to be kept secret in the interest of national defense or foreign policy; or

"(B) any communication relating to a collection of information which has not been approved under this chapter, the disclosure of which could lead to retaliation or discrimination against the communicator.

"(f)(1) An independent regulatory agency which is administered by 2 or more members of a commission, board, or similar body, may by majority vote void—

"(A) any disapproval by the Director, in whole or in part, of a proposed collection of information of an independent regulatory agency; or

"(B) an exercise of authority under subsection (d) of section 3507 concerning such an agency.

"(2) The agency shall certify each vote to void such disapproval or exercise to the Director, and explain the reasons for such vote. The Director shall without further delay assign a control number to such collection of information, and such vote to void the disapproval or exercise shall be valid for a period of 3 years.

"(g) The Director may not approve a collection of information for a period in excess of 3 years.

"(h)(1) If an agency decides to seek extension of the Director's approval granted for a currently approved collection of information, the agency shall—

"(A) conduct the review established under section 3506(c), including the seeking of comment from the public on the continued need for, and burden imposed by the collection of information; and

"(B) after having made a reasonable effort to seek public comment, but no later than 60 days before the expiration date of the control number assigned by the Director for the currently approved collection of information, submit the collection of information for review and approval under this section, which shall include an explanation of how the agency has used the information that it has collected.

"(2) If under the provisions of this section, the Director disapproves a collection of information contained in an existing rule, or recommends or instructs the agency to make a substantive or material change to a collection of information contained in an existing rule, the Director shall—

"(A) publish an explanation thereof in the Federal Register; and

"(B) instruct the agency to undertake a rulemaking within a reasonable time limited to consideration of changes to the collection of information contained in the rule and thereafter to submit the collection of information for approval or disapproval under this chapter.

"(3) An agency may not make a substantive or material modification to a collection of information after such collection has been approved by the Director, unless the modification has been submitted to the Director for review and approval under this chapter.

"(i)(1) If the Director finds that a senior official of an agency designated under section 3506(a) is sufficiently independent of program responsibility to evaluate fairly whether proposed collections of information should be approved and has sufficient resources to carry out this responsibility effectively, the Director may, by rule in accordance with the notice and comment provisions of chapter 5 of title 5, United States Code, delegate to such official the authority to approve proposed collections of information in specific program areas, for specific purposes, or for all agency purposes.

"(2) A delegation by the Director under this section shall not preclude the Director from reviewing individual collections of information if the Director determines that circumstances warrant such a review. The Director shall retain authority to revoke such delegations, both in general and with regard to any specific matter. In acting for the Director, any official to whom approval authority has been delegated under this section shall comply fully with the rules and regulations promulgated by the Director.

"(j)(1) The agency head may request the Director to authorize collection of information prior to expiration of time periods established under this chapter, if an agency head determines that—

"(A) a collection of information—

"(i) is needed prior to the expiration of such time periods; and

"(ii) is essential to the mission of the agency; and

"(B) the agency cannot reasonably comply with the provisions of this chapter within such time periods because—

"(i) public harm is reasonably likely to result if normal clearance procedures are followed; or

"(ii) an unanticipated event has occurred and the use of normal clearance procedures is reasonably likely to prevent or disrupt the collection of information related to the event or is reasonably likely to cause a statutory or court-ordered deadline to be missed.

"(2) The Director shall approve or disapprove any such authorization request within the time requested by the agency head and, if approved, shall assign the collection of information a control number. Any collection of information conducted under this subsection may be conducted without compliance with the provisions of this chapter for a maximum of 90 days after the date on which the Director received the request to authorize such collection.

"§3508. Determination of necessity for information; hearing

"Before approving a proposed collection of information, the Director shall determine whether the collection of information by the agency is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility. Before making a determination the Director may give the agency and other interested persons an opportunity to be heard or to submit statements in writing. To the extent that the Director determines that the collection of information by an agency is unnecessary for the proper performance of the functions of the agency, for any reason, the agency may not engage in the collection of information.

"§3509. Designation of central collection agency

"The Director may designate a central collection agency to obtain information for two or more agencies if the Director determines that the needs of such agencies for information will be adequately served by a single collection agency, and such sharing of data is not inconsistent with applicable law. In such cases the Director shall prescribe (with reference to the collection of information) the duties and functions of the collection agency so designated and of the agencies for which it is to act as agent (including reimbursement for costs). While the designation is in effect, an agency covered by the designation may not obtain for itself information for the agency which is the duty of the collection agency to obtain. The Director may modify the designation from time to time as circumstances require. The authority to designate under this section is subject to the provisions of section 3507(f) of this chapter.

"§3510. Cooperation of agencies in making information available

"(a) The Director may direct an agency to make available to another agency, or an agency may make available to another agency, information obtained by a collection of information if the disclosure is not inconsistent with applicable law.

"(b)(1) If information obtained by an agency is released by that agency to another agency, all the provisions of law (including penalties which relate to the unlawful disclosure of information) apply to the officers and employees of the agency to which information is released to the same extent and in the same manner as the provisions apply to the officers and employees of the agency which originally obtained the information.

"(2) The officers and employees of the agency to which the information is released, in addition, shall be subject to the same provisions of law, including penalties, relating to the unlawful disclosure of information as if the information had been collected directly by that agency.

"§3511. Establishment and operation of Government Information Locator Service

"In order to assist agencies and the public in locating information and to promote information sharing and equitable access by the public, the Director shall—

"(1) cause to be established and maintained a distributed agency-based electronic Government Information Locator Service (hereafter in this section referred to as the 'Service'), which shall identify the major information systems, holdings, and dissemination products of each agency;

"(2) require each agency to establish and maintain an agency information locator service as a component of, and to support the establishment and operation of the Service;

"(3) in cooperation with the Archivist of the United States, the Administrator of General Services, the Public Printer, and the Librarian of Congress, establish an interagency committee to advise the Secretary of Commerce on the development of technical standards for the Service to ensure compatibility, promote information sharing, and uniform access by the public;

"(4) consider public access and other user needs in the establishment and operation of the Service;

"(5) ensure the security and integrity of the Service, including measures to ensure that only information which is intended to be disclosed to the public is disclosed through the Service; and

"(6) periodically review the development and effectiveness of the Service and make recommendations for improvement, including other mechanisms for improving public access to Federal agency public information.

"§3512. Public protection

"Notwithstanding any other provision of law, no person shall be subject to any penalty for failing to maintain, provide, or disclose information to or for any agency or person if the applicable collection of information—

"(1) was made after December 31, 1981; and

"(2)(A) does not display a valid control number assigned by the Director; or

"(B) fails to state that such collection is not subject to this chapter.

"§3513. Director review of agency activities; reporting; agency response

"(a) In consultation with the Administrator of General Services, the Archivist of the United States, the Director of the National Institute of Standards and Technology, and the Director of the Office of Personnel Management, the Director shall periodically review selected agency information resources management activities to ascertain the efficiency and effectiveness of such activities to improve agency performance and the accomplishment of agency missions.

"(b) Each agency having an activity reviewed under subsection (a) shall, within 60 days after receipt of a report on the review, provide a written plan to the Director describing steps (including milestones) to—

"(1) be taken to address information resources management problems identified in the report; and

"(2) improve agency performance and the accomplishment of agency missions.

"§3514. Responsiveness to Congress

"(a)(1) The Director shall—

"(A) keep the Congress and congressional committees fully and currently informed of the major activities under this chapter; and

"(B) submit a report on such activities to the President of the Senate and the Speaker of the House of Representatives annually and at such other times as the Director determines necessary.

"(2) The Director shall include in any such report a description of the extent to which agencies have—

"(A) reduced information collection burdens on the public, including—

"(i) a summary of accomplishments and planned initiatives to reduce collection of information burdens;

"(ii) a list of all violations of this chapter and of any rules, guidelines, policies, and procedures issued pursuant to this chapter; and

"(iii) a list of any increase in the collection of information burden, including the authority for each such collection;

"(B) improved the quality and utility of statistical information;

"(C) improved public access to Government information; and

"(D) improved program performance and the accomplishment of agency missions through information resources management.

"(b) The preparation of any report required by this section shall be based on performance results reported by the agencies and shall not increase the collection of information burden on persons outside the Federal Government.

"§3515. Administrative powers

"Upon the request of the Director, each agency (other than an independent regulatory agency) shall, to the extent practicable, make its services, personnel, and facilities available to the Director for the performance of functions under this chapter.

"§3516. Rules and regulations

"The Director shall promulgate rules, regulations, or procedures necessary to exercise the authority provided by this chapter.

"§3517. Consultation with other agencies and the public

"(a) In developing information resources management policies, plans, rules, regulations, procedures, and guidelines and in reviewing collections of information, the Director shall provide interested agencies and persons early and meaningful opportunity to comment.

"(b) Any person may request the Director to review any collection of information conducted by or for an agency to determine, if, under this chapter, the person shall maintain, provide, or disclose the information to or for the agency. Unless the request is frivolous, the Director shall, in coordination with the agency responsible for the collection of information—

"(1) respond to the request within 60 days after receiving the request, unless such period is extended by the Director to a specified date and the person making the request is given notice of such extension; and

"(2) take appropriate remedial action, if necessary.

"§3518. Effect on existing laws and regulations

"(a) Except as otherwise provided in this chapter, the authority of an agency under any other law to prescribe policies, rules, regulations, and procedures for Federal information resources management activities is subject to the authority of the Director under this chapter.

"(b) Nothing in this chapter shall be deemed to affect or reduce the authority of the Secretary of Commerce or the Director of the Office of Management and Budget pursuant to Reorganization Plan No. 1 of 1977 (as amended) and Executive order, relating to telecommunications and information policy, procurement and management of telecommunications and information systems, spectrum use, and related matters.

"(c)(1) Except as provided in paragraph (2), this chapter shall not apply to the collection of information—

"(A) during the conduct of a Federal criminal investigation or prosecution, or during the disposition of a particular criminal matter;

"(B) during the conduct of—

"(i) a civil action to which the United States or any official or agency thereof is a party; or

"(ii) an administrative action or investigation involving an agency against specific individuals or entities;

"(C) by compulsory process pursuant to the Antitrust Civil Process Act and section 13 of the Federal Trade Commission Improvements Act of 1980; or

"(D) during the conduct of intelligence activities as defined in section 4–206 of Executive Order No. 12036, issued January 24, 1978, or successor orders, or during the conduct of cryptologic activities that are communications security activities.

"(2) This chapter applies to the collection of information during the conduct of general investigations (other than information collected in an antitrust investigation to the extent provided in subparagraph (C) of paragraph (1)) undertaken with reference to a category of individuals or entities such as a class of licensees or an entire industry.

"(d) Nothing in this chapter shall be interpreted as increasing or decreasing the authority conferred by Public Law 89–306 on the Administrator of the General Services Administration, the Secretary of Commerce, or the Director of the Office of Management and Budget.

"(e) Nothing in this chapter shall be interpreted as increasing or decreasing the authority of the President, the Office of Management and Budget or the Director thereof, under the laws of the United States, with respect to the substantive policies and programs of departments, agencies and offices, including the substantive authority of any Federal agency to enforce the civil rights laws.

"§3519. Access to information

"Under the conditions and procedures prescribed in section 716 of title 31, the Director and personnel in the Office of Information and Regulatory Affairs shall furnish such information as the Comptroller General may require for the discharge of the responsibilities of the Comptroller General. For the purpose of obtaining such information, the Comptroller General or representatives thereof shall have access to all books, documents, papers and records, regardless of form or format, of the Office.

"§3520. Authorization of appropriations

"(a) Subject to subsection (b), there are authorized to be appropriated to the Office of Information and Regulatory Affairs to carry out the provisions of this chapter, and for no other purpose, $8,000,000 for each of the fiscal years 1995, 1996, 1997, 1998, and 1999.

"(b)(1) No funds may be appropriated pursuant to subsection (a) unless such funds are appropriated in an appropriation Act (or continuing resolution) which separately and expressly states the amount appropriated pursuant to subsection (a) of this section.

"(2) No funds are authorized to be appropriated to the Office of Information and Regulatory Affairs, or to any other officer or administrative unit of the Office of Management and Budget, to carry out the provisions of this chapter, or to carry out any function under this chapter, for any fiscal year pursuant to any provision of law other than subsection (a) of this section.".

SEC. 103. NONAPPLICABILITY OF CERTAIN PROVISIONS OF LAW.

The provisions of section 4 and title IV of this Act shall not apply to the provisions and amendments made by this title.

SEC. 104. EFFECTIVE DATE.

The provisions of this title and the amendments made by this title shall take effect on March 31, 1995.

DEFENSE DEPARTMENT OVERSEAS TEACHER PAY

The text of the bill (H.R. 3499) to amend the Defense Department Overseas Teachers Pay and Personnel Practices Act, as passed by the Senate on October 7, 1994, is as follows:

H.R. 3499

Resolved, That the bill from the House of Representatives (H.R. 3499) entitled "An Act to amend the Defense Department Overseas Teachers Pay and Personnel Practices Act", do pass with the following amendment:

Page 2 after line 12, insert:

SEC. 2. PROHIBITION ON CASH AWARDS TO CERTAIN FEDERAL OFFICERS.

(a) IN GENERAL.—Chapter 45 of title 5, United States Code, is amended by inserting after section 4507 the following new sections:

"§4508. Limitation of awards during a Presidential election year

"(a) For purposes of this section, the term—

"(1) 'Presidential election period' means any period beginning on June 1 in a calendar year in which the popular election of the President occurs, and ending on January 20 following the date of such election; and

"(2) 'senior politically appointed officer' means any officer who during a Presidential election period serves—

"(A) in a Senior Executive Service position and is not a career appointee as defined under section 3132(a)(4); or

"(B) in a position of a confidential or policy-determining character under schedule C of subpart C of part 213 of title 5 of the Code of Federal Regulations.

"(b) No senior politically appointed officer may receive an award under the provisions of this subchapter during a Presidential election period.

"§4509. Prohibition of cash award to Executive Schedule officers

"No officer may receive a cash award under the provisions of this subchapter, if such officer—

"(1) serves in—

"(A) an Executive Schedule position under subchapter II of chapter 53; or

"(B) a position for which the compensation is set in statute by reference to a section or level under subchapter II of chapter 53; and

"(2) was appointed to such position by the President, by and with the advice and consent of the Senate.".

(b) TECHNICAL AND CONFORMING AMENDMENT.—The table of sections for chapter 45 of title 5, United States Code, is amended by inserting after the item relating to section 4507 the following:

"4508. Limitation of awards during a Presidential election year.
"4509. Prohibition of cash award to Executive Schedule officers.".

VETERANS' PERSIAN GULF WAR BENEFITS ACT

The text of the bill (H.R. 4386) to amend title 38, United States Code, authorizing the Secretary of Veterans Affairs to provide compensation to veterans suffering from disabilities resulting from illnesses attributed to service in the Persian Gulf theater of operations during the Persian Gulf War, to provide for increased research into illnesses reported by Persian Gulf war veterans, and for other purposes, as passed by the Senate on October 7, 1994, is as follows:

H.R. 4386

Resolved, That the bill from the House of Representatives (H.R. 4386) entitled "An Act to amend title 38, United States Code, authorizing the Secretary of Veterans Affairs to provide compensation to veterans suffering from disabilities resulting from illnesses attributed to service in the Persian Gulf theater of operations during the Persian Gulf War, to provide for increased research into illnesses reported by Persian Gulf War veterans, and for other purposes", do pass with the following amendments:

Strike out all after the enacting clause and insert:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Veterans' Benefits Improvements Act of 1994".

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

SEC. 2. REFERENCES TO TITLE 38, UNITED STATES CODE.

Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of title 38, United States Code.

TITLE I—PERSIAN GULF WAR VETERANS

SEC. 101. SHORT TITLE.

This Act may be cited as the "Persian Gulf War Veterans' Benefits Act".

SEC. 102. FINDINGS.

The Congress makes the following findings:

(1) During the Persian Gulf War, members of the Armed Forces were exposed to numerous potentially toxic substances, including fumes and smoke from military operations, oil well fires, diesel exhaust, paints, pesticides, depleted uranium, infectious agents, investigational drugs and vaccines, and indigenous diseases, and were also given multiple immunizations. It is not known whether these servicemembers were exposed to chemical or biological warfare agents. However, threats of enemy use of chemical and biological warfare heightened the psychological stress associated with the military operation.

(2) Significant numbers of veterans of the Persian Gulf War are suffering from illnesses, or are exhibiting symptoms of illness, that cannot now be diagnosed or clearly defined. As a result, many of these conditions or illnesses are not considered to be service connected under current law for purposes of benefits administered by the Department of Veterans Affairs.

(3) The National Institutes of Health Technology Assessment Workshop on the Persian Gulf Experience and Health, held in April 1994, concluded that the complex biological, chemical, physical, and psychological environment of the Southwest Asia theater of operations produced complex adverse health effects in Persian Gulf War veterans and that no single disease entity or syndrome is apparent. Rather, it may be that the illnesses suffered by those veterans result from multiple illnesses with overlapping symptoms and causes that have yet to be defined.

(4) That workshop concluded that the information concerning the range and intensity of exposure to toxic substances by military personnel in the Southwest Asia theater of operations is very limited and that such information was collected only after a considerable delay.

(5) In response to concerns regarding the health-care needs of Persian Gulf War veterans, particularly those who suffer from illnesses or conditions for which no diagnosis has been made, the Congress, in Public Law 102–585, directed the establishment of a Persian Gulf War Veterans Health Registry, authorized health examinations for veterans of the Persian Gulf War, and provided for the National Academy of Sciences to conduct a comprehensive review and assessment of information regarding the health consequences of military service in the Persian Gulf theater of operations and to develop recommendations on avenues for research regarding such health consequences. In Public Law 103–210, the Congress authorized the Department of Veterans Affairs to provide health care services on a priority basis to Persian Gulf War veterans. The Congress also provided in Public Law 103–160 (the National Defense Authorization Act for Fiscal Year 1994) for the establishment of a specialized environmental medical facility for the conduct of research into the possible health effects of exposure to low levels of hazardous chemicals, especially among Persian Gulf veterans, and for research into the possible health effects of battlefield exposure in such veterans to depleted uranium.

(6) In response to concerns about the lack of objective research on Gulf War illnesses, Congress included research provisions in the National Defense Authorization Act for Fiscal Year 1995, which was passed by the House and Senate in September 1994. This legislation requires the Secretary of Defense to provide research grants to non-Federal researchers to support three types of studies of the Gulf War syndrome. The first type of study will be an epidemiological study or studies of the incidence, prevalence, and nature of the illness and symptoms and the risk factors associated with symptoms or illnesses. This will include illnesses among spouses and birth defects and illnesses

among offspring born before and after the Gulf War. The second group of studies shall be conducted to determine the health consequences of the use of pyridostigmine bromide as a pretreatment antidote enhancer during the Persian Gulf War, alone or in combination with exposure to pesticides, environmental toxins, and other hazardous substances. The final group of studies shall include clinical research and other studies on the causes, possible transmission, and treatment of Gulf War syndrome, and will include studies of veterans and their spouses and children.

(7) Further research and studies must be undertaken to determine the underlying causes of the illnesses suffered by Persian Gulf War veterans and, pending the outcome of such research, veterans who are seriously ill as the result of such illnesses should be given the benefit of the doubt and be provided compensation benefits to offset the impairment in earnings capacities they may be experiencing.

SEC. 103. PURPOSES.

The purposes of this title are—

(1) to provide compensation to Persian Gulf War veterans who suffer disabilities resulting from illnesses that cannot now be diagnosed or defined, and for which other causes cannot be identified;

(2) to require the Secretary of Veterans Affairs to develop at the earliest possible date case assessment strategies and definitions or diagnoses of such illnesses;

(3) to promote greater outreach to Persian Gulf War veterans and their families to inform them of ongoing research activities, as well as the services and benefits to which they are currently entitled; and

(4) to ensure that research activities and accompanying surveys of Persian Gulf War veterans are appropriately funded and undertaken by the Department of Veterans Affairs.

SEC. 104. DEVELOPMENT OF MEDICAL EVALUATION PROTOCOL.

(a) UNIFORM MEDICAL EVALUATION PROTOCOL.—(1) The Secretary of Veterans Affairs shall develop and implement a uniform and comprehensive medical evaluation protocol that will ensure appropriate medical assessment, diagnosis, and treatment of Persian Gulf War veterans who are suffering from illnesses the origins of which are (as of the date of the enactment of this Act) unknown and that may be attributable to service in the Southwest Asia theater of operations during the Persian Gulf War. The protocol shall include an evaluation of complaints relating to illnesses involving the reproductive system.

(2) If such a protocol is not implemented before the end of the 120-day period beginning on the date of the enactment of this Act, the Secretary shall, before the end of such period, submit to the Committees on Veterans' Affairs of the Senate and House of Representatives a report as to why such a protocol has not yet been developed.

(3)(A) The Secretary shall ensure that the evaluation under the protocol developed under this section is available at all Department medical centers that have the capability of providing the medical assessment, diagnosis, and treatment required under the protocol.

(B) The Secretary may enter into contracts with non-Department medical facilities for the provision of the evaluation under the protocol.

(C) In the case of a veteran whose residence is distant from a medical center described in subparagraph (A), the Secretary may provide the evaluation through a Department medical center described in that subparagraph and, in such a case, may provide the veteran the travel and incidental expenses therefor pursuant to the provisions of section 111 of title 38, United States Code.

(4)(A) If the Secretary is unable to diagnose the symptoms or illness of a veteran provided an evaluation, or if the symptoms or illness of a veteran do not respond to treatment provided by the Secretary, the Secretary may use the authority in section 1703 of title 38, United States Code, in order to provide for the veteran to receive diagnostic tests or treatment at a non-Department medical facility that may have the capability of diagnosing or treating the symptoms or illness of the veteran. The Secretary may provide the veteran the travel and incidental expenses therefor pursuant to the provisions of section 111 of title 38, United States Code.

(B) The Secretary shall request from each non-Department medical facility that examines or treats a veteran under this paragraph such information relating to the diagnosis or treatment as the Secretary considers appropriate.

(5) In each year after the implementation of the protocol, the Secretary shall enter into an agreement with the National Academy of Sciences under which agreement appropriate experts shall review the adequacy of the protocol and its implementation by the Department of Veterans Affairs.

(b) RELATIONSHIP TO OTHER COMPREHENSIVE CLINICAL EVALUATION PROTOCOLS.—The Secretary, in consultation with the Secretary of Defense, shall ensure that the information collected through the protocol described in this section is collected and maintained in a manner that permits the effective and efficient cross-reference of that information with information collected and maintained through the comprehensive clinical protocols of the Department of Defense for Persian Gulf War veterans.

(c) CASE DEFINITIONS AND DIAGNOSES.—The Secretary shall develop case definitions or diagnoses for illnesses associated with the service described in subsection (a)(1). The Secretary shall develop such definitions or diagnoses at the earliest possible date.

SEC. 105. OUTREACH TO PERSIAN GULF VETERANS.

(a) IN GENERAL.—The Secretary of Veterans Affairs shall implement a comprehensive outreach program to inform Persian Gulf War veterans and their families of the medical care and other benefits that may be provided by the Department of Veterans Affairs and the Department of Defense arising from service in the Persian Gulf War.

(b) NEWSLETTER.—(1) The outreach program shall include a newsletter which shall be updated and distributed at least semi-annually and shall be distributed to the veterans listed on the Persian Gulf War Veterans Health Registry. The newsletter shall include summaries of the status and findings of Government sponsored research on illnesses of Persian Gulf War veterans and their families, as well as on benefits available to such individuals through the Department of Veterans Affairs. The newsletter shall be prepared in consultation with veterans service organizations.

(2) The requirement under this subsection for the distribution of the newsletter shall terminate on December 31, 1999.

(c) TOLL-FREE NUMBER.—The outreach program shall include establishment of a toll-free telephone number to provide Persian Gulf War veterans and their families information on the Persian Gulf War Veterans Health Registry, health care and other benefits provided by the Department of Veterans Affairs, and such other information as the Secretary considers appropriate. Such toll-free telephone number shall be established not later than 90 days after the date of the enactment of this Act.

SEC. 106. COMPENSATION BENEFITS FOR DISABILITY RESULTING FROM ILLNESS ATTRIBUTED TO SERVICE DURING THE PERSIAN GULF WAR.

(a) IN GENERAL.—(1) Chapter 11 is amended by adding at the end of subchapter II the following new section:

"§1117. Compensation for disabilities occurring in Persian Gulf War veterans

"(a) The Secretary may pay compensation under this subchapter to any Persian Gulf veteran suffering from a chronic disability resulting from an undiagnosed illness (or combination of undiagnosed illnesses) that—

"(1) became manifest during service on active duty in the Armed Forces in the Southwest Asia theater of operations during the Persian Gulf War; or

"(2) became manifest to a degree of 10 percent or more within the presumptive period prescribed under subsection (b).

"(b) The Secretary shall prescribe by regulation the period of time following service in the Southwest Asia theater of operations during the Persian Gulf War that the Secretary determines is appropriate for presumption of service connection for purposes of this section. The Secretary's determination of such period of time shall be made following a review of any available credible medical or scientific evidence and the historical treatment afforded disabilities for which manifestation periods have been established and shall take into account other pertinent circumstances regarding the experiences of veterans of the Persian Gulf War.

"(c)(1) The Secretary shall prescribe regulations to carry out this section.

"(2) Those regulations shall include the following:

"(A) A description of the period and geographical area or areas of military service in connection with which compensation under this section may be paid.

"(B) A description of the illnesses for which compensation under this section may be paid.

"(C) A description of any relevant medical characteristic (such as a latency period) associated with each such illness.

"(d) A disability for which compensation under this subchapter is payable shall be considered to be service connected for purposes of all other laws of the United States.

"(e) For purposes of this section, the term 'Persian Gulf veteran' means a veteran who served on active duty in the Armed Forces in the Southwest Asia theater of operations during the Persian Gulf War.".

(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 1116 the following new item:

"1117. Compensation for disabilities occurring in Persian Gulf War veterans.".

(b) CONFORMING AMENDMENTS.—Section 1113 is amended—

(1) by striking out "section 1112 or 1116" in the first and third place it appears and inserting in lieu thereof "section 1112, 1116, or 1117";

(2) by striking out "title" the second place it appears and inserting in lieu thereof "title, or payments of compensation pursuant to section 1117 of this title,"; and

(3) by inserting "or disabilities" after "diseases" both places it appears in subsection (a).

(c) REPORT.—Not later than 60 days after the date of the enactment of this Act, the Secretary of Veterans Affairs shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives a report stating whether or not the Secretary intends to pay compensation as provided in section 1117 of title 38, United States Code, as added by subsection (a).

(d) REGULATIONS.—If the Secretary states in the report under subsection (c) that the Secretary intends to pay compensation as provided

in section 1117 of title 38, United States Code, as added by subsection (a), the Secretary shall, not later than 30 days after the date on which such report is submitted, publish in the Federal Register proposed regulations under subsections (b) and (c) of that section.

SEC. 107. EVALUATION OF HEALTH STATUS OF SPOUSES AND CHILDREN OF PERSIAN GULF WAR VETERANS.

(a) EVALUATION PROGRAM.—Subject to subsection (c), the Secretary of the Veterans Affairs shall conduct a study to evaluate the health status of spouses and children of Persian Gulf War veterans. Under the study, the Secretary shall provide for the conduct of diagnostic testing and appropriate medical examinations of any individual—

(1) who is the spouse or child of a veteran who—

(A) is listed in the Persian Gulf War Veterans Registry established under section 702 of Public Law 102–585; and

(B) is suffering from an illness or disorder;

(2) who is apparently suffering from, or may have suffered from, an illness or disorder (including a birth defect, miscarriage, or stillbirth) which cannot be disassociated from the veteran's service in the Southwest Asia theater of operations; and

(3) who, in the case of a spouse, has granted the Secretary permission to include in the Registry relevant medical data (including a medical history and the results of diagnostic testing and medical examinations) and such other information as the Secretary considers relevant and appropriate with respect to such individual.

Such testing and examinations shall be carried out so as to gather such medical data as the Secretary considers relevant and appropriate in order to determine the nature and extent of the association, if any, between illness or disorder of the spouse or child and the illness of the veteran.

(b) DURATION OF PROGRAM.—The program shall be carried out during the period beginning on November 1, 1994, and ending on September 30, 1996.

(c) FUNDING LIMITATION.—The amount spent for the program under subsection (a) may not exceed $2,000,000.

(d) CONTRACTING.—The Secretary shall provide for the conduct of testing and examinations under subsection (a) through appropriate contract arrangements.

(e) STANDARD PROTOCOLS AND GUIDELINES.—The Secretary shall seek to ensure uniform development of medical data through the development of standard protocols and guidelines for such testing and examinations. If such protocols and guidelines have not been adopted before the end of the 120-day period beginning on the date of the enactment of this Act, the Secretary shall, before the end of such period, submit to the Committees on Veterans' Affairs of the Senate and House of Representatives a report as to why such protocols and guidelines have not yet been developed.

(f) ENTRY OF RESULTS IN REGISTRY.—The results of diagnostic tests, medical histories, and medical examinations conducted under subsection (a) shall be entered into the Persian Gulf War Veterans Health Registry.

(g) OUTREACH.—The Secretary shall conduct such outreach activities as the Secretary determines necessary to ensure that implementation of this section results in sufficient information to enable the Secretary—

(1) to analyze the health status of large numbers of spouses and children of Persian Gulf veterans; and

(2) to formulate research hypotheses regarding possible association between illnesses or disorders suffered by Persian Gulf veterans and illnesses or disorders (including birth defects, miscarriages, and stillbirths) suffered by their spouses and children.

(h) USE OUTSIDE DEPARTMENT OF STANDARD PROTOCOLS AND GUIDELINES.—The Secretary shall—

(1) make the standard protocols and guidelines developed under this section available to any entity which requests a copy of such protocols and guidelines; and

(2) enter into the registry the results of any examination of the spouse or child of a veteran who served in the Persian Gulf theater which a licensed physician certifies was conducted using those standard protocols and guidelines.

(i) REPORTS TO CONGRESS.—(1) The Secretary shall submit to Congress no later than October 31, 1995, a report on the Secretary's implementation of this section.

(2) The Secretary shall analyze the data entered into the registry under this section and shall submit to Congress, not later than March 1, 1997, a report on that analysis and on the Secretary's recommendation for any further legislation or studies regarding the health status of spouses and children of Persian Gulf War veterans.

(j) DEFINITIONS.—For purposes of this section, the terms "child" and "spouse" have the meanings given those terms in paragraphs (4) and (31), respectively, of section 101 of title 38, United States Code.

SEC. 108. CLARIFICATION OF SCOPE OF HEALTH EXAMINATIONS PROVIDED FOR VETERANS ELIGIBLE FOR INCLUSION IN HEALTH-RELATED REGISTRIES.

Section 703 of the Persian Gulf War Veterans' Health Status Act (title VII of Public Law 102–585; 38 U.S.C. 527 note) is amended—

(1) by inserting "(including diagnostic tests)" after "examination" each place it appears other than in subsection (a)(1)(A);

(2) in subsection (a)(1)(A)—

(A) by inserting "(including any appropriate diagnostic tests)" after "a health examination"; and

(B) by inserting "and the tests" after "the examination"; and

(3) in subsection (a)(2), by inserting "(including any diagnostic tests)" after "examinations".

SEC. 109. SURVEY OF PERSIAN GULF VETERANS.

(a) IN GENERAL.—The Secretary of Veterans Affairs may carry out a survey of Persian Gulf veterans to gather information on the incidence and nature of health problems occurring in Persian Gulf veterans and their families.

(b) COORDINATION WITH DEPARTMENT OF DEFENSE.—Any survey under subsection (a) shall be carried out in coordination with the Secretary of Defense.

(c) PERSIAN GULF VETERAN.—For purposes of this section, a Persian Gulf veteran is an individual who served on active duty in the Armed Forces in the Southwest Asia theater of operations during the Persian Gulf War as defined in section 101(33) of title 38, United States Code.

SEC. 110. AUTHORIZATION FOR EPIDEMIOLOGICAL STUDIES.

(a) STUDY OF HEALTH CONSEQUENCES OF PERSIAN GULF SERVICE.—If the National Academy of Sciences includes in the report required by section 706(b) of the Veterans Health Care Act of 1992 (Public Law 102–585) a finding that there is a sound basis for an epidemiological study or studies on the health consequences of service in the Persian Gulf theater of operations during the Persian Gulf War and recommends the conduct of such a study or studies, the Secretary of Veterans Affairs is authorized to carry out such study.

(b) OVERSIGHT.—(1) The Secretary shall seek to enter into an agreement with the Medical Follow-Up Agency (MFUA) of the Institute of Medicine of the National Academy of Sciences for (A) the review of proposals to conduct the research referred to in subsection (a), (B) oversight of such research, and (C) review of the research findings.

(2) If the Secretary is unable to enter into an agreement under paragraph (1) with the entity specified in that paragraph, the Secretary shall enter into an agreement described in that paragraph with another appropriate scientific organization which does not have a connection to the Department of Veterans Affairs. In such a case, the Secretary shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives, at least 90 days before the date on which the agreement is entered into, notice in writing identifying the organization with which the Secretary intends to enter into the agreement.

(c) ACCESS TO DATA.—The Secretary shall enter into agreements with the Secretary of Defense and the Secretary of Health and Human Services to make available for the purposes of any study described in subsection (a) all data that the Secretary, in consultation with the National Academy of Sciences and the contractor for the study, considers relevant to the study.

(d) AUTHORIZATION.—There are authorized to be appropriated to the Department such sums as are necessary for the conduct of studies described in subsection (a).

SEC. 111. COST-SAVINGS PROVISIONS.

(a) ELECTION OF DEATH PENSION BY SURVIVING SPOUSE.—Section 1317 is amended—

(1) by striking out "No person" and inserting in lieu thereof "(a) Except as provided in subsection (b), no person"; and

(2) by adding at the end the following:

"(b) A surviving spouse who is eligible for dependency and indemnity compensation may elect to receive death pension instead of such compensation.".

(b) POLICY REGARDING COST-OF-LIVING ADJUSTMENT IN COMPENSATION RATES FOR FISCAL YEAR 1995.—The fiscal year 1995 cost-of-living adjustments in the rates of and limitations for compensation payable under chapter 11 of title 38, United States Code, and of dependency and indemnity compensation payable under chapter 13 of such title will be no more than a percentage equal to the percentage by which benefit amounts payable under title II of the Social Security Act (42 U.S.C. 401 et seq.) are increased effective December 1, 1994, as a result of a determination under section 215(i) of such Act (42 U.S.C. 415(i)), with all increased monthly rates and limitations (other than increased rates or limitations equal to a whole dollar amount) rounded down to the next lower dollar.

TITLE II—BOARD OF VETERANS' APPEALS ADMINISTRATION

SEC. 201. APPOINTMENT, PAY COMPARABILITY, AND PERFORMANCE REVIEWS FOR MEMBERS OF THE BOARD OF VETERANS' APPEALS.

(a) MEMBERS OTHER THAN CHAIRMAN.—(1) Chapter 71 is amended by inserting after section 7101 the following new section:

"§7101A. Members of Board: appointment; pay; performance review

"(a) The members of the Board of Veterans' Appeals other than the Chairman (and including the Vice Chairman) shall be appointed by the Secretary, with the approval of the President, based upon recommendations of the Chairman.

"(b) Members of the Board (other than the Chairman and any member of the Board who is a member of the Senior Executive Service) shall, in accordance with regulations prescribed by the Secretary, be paid basic pay at rates equivalent to the rates payable under section 5372 of title 5.

"(c)(1)(A) The Chairman shall establish a panel to review the performance of members of the Board. The panel shall be comprised of the

Chairman and two other members of the Board (other than the Vice Chairman). The Chairman shall periodically rotate membership on the panel so as to ensure that each member of the Board (other than the Vice Chairman) serves as a member of the panel for and within a reasonable period.

"(B) Not less than one year after the job performance standards under subsection (f) are initially established, and not less often than once every three years thereafter, the performance review panel shall determine, with respect to each member of the Board (other than the Chairman or a member who is a member of the Senior Executive Service), whether that member's job performance as a member of the Board meets the performance standards for a member of the Board established under subsection (f). Each such determination shall be in writing.

"(2) If the determination of the performance review panel in any case is that the member's job performance as a member of the Board meets the performance standards for a member of the Board established under subsection (f), the Chairman shall recertify the member's appointment as a member of the Board.

"(3) If the determination of the performance review panel in any case is that the member's job performance does not meet the performance standards for a member of the Board established under subsection (f), the Chairman shall, based upon the individual circumstances, either—

"(A) grant the member a conditional recertification; or

"(B) recommend to the Secretary that the member be noncertified.

"(4) In the case of a member of the Board who is granted a conditional recertification under paragraph (3)(A) or (5)(A), the performance review panel shall review the member's job performance record and make a further determination under paragraph (1) concerning that member not later than one year after the date of the conditional recertification. If the determination of the performance review panel at that time is that the member's job performance as a member of the Board still does not meet the performance standards for a member of the Board established under subsection (f), the Chairman shall recommend to the Secretary that the member be noncertified.

"(5) In a case in which the Chairman recommends to the Secretary under paragraph (3) or (4) that a member be noncertified, the Secretary, after considering the recommendation of the Chairman, may either—

"(A) grant the member a conditional recertification; or

"(B) determine that the member should be noncertified.

"(d)(1) If the Secretary, based upon the recommendation of the Chairman, determines that a member of the Board should be noncertified, that member's appointment as a member of the Board shall be terminated and that member shall be removed from the Board.

"(2) Upon removal from the Board under paragraph (1), a member of the Board (other than the Chairman) who was a career or career-conditional employee in the civil service before commencement of service as a member of the Board shall revert to the civil service grade and series held by the member immediately before the appointment of the member to the Board.

"(e)(1) A member of the Board (other than the Chairman or a member of the Senior Executive Service) may be removed as a member of the Board by reason of job performance only as provided in subsections (c) and (d). Such a member may be removed by the Secretary, upon the recommendation of the Chairman, for any other reason as determined by the Secretary.

"(2) In the case of a removal of a member under this section for a reason other than job performance that would be covered by section 7521 of title 5 in the case of an administrative law judge, the removal of the member of the Board shall be carried out subject to the same requirements as apply to removal of an administrative law judge under that section. Section 554(a)(2) of title 5 shall not apply to a removal action under this subsection. In such a removal action, a member shall have the rights set out in section 7513(b) of that title.

"(f) The Chairman, subject to the approval of the Secretary, shall establish standards for the performance of the job of a member of the Board (other than the Chairman or a member of the Senior Executive Service). Those standards shall establish objective and fair criteria for evaluation of the job performance of a member of the Board.

"(g) The Secretary shall prescribe procedures for the administration of this section, including deadlines and time schedules for different actions under this section.".

(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 7101 the following new item:

"7101A. Members of Board: appointment; pay; performance review.".

(b) SAVE PAY PROVISION.—The rate of basic pay payable to an individual who is a member of the Board of Veterans' Appeals on the date of the enactment of this Act may not be reduced by reason of the amendments made by this section to a rate below the rate payable to such individual on the day before such date.

(c) EFFECTIVE DATE.—Section 7101A(b) of title 38, United States Code, as added by subsection (a), shall take effect on the first day of the first pay period beginning after December 31, 1994.

(d) CONFORMING AMENDMENTS.—Section 7101(b) is amended—

(1) by striking out paragraph (2);

(2) by designating as paragraph (2) the text in paragraph (1) beginning "The Chairman may be removed"; and

(3) by striking out "Members (including the Chairman)" in paragraph (3) and inserting in lieu thereof "The Chairman".

SEC. 202. DEADLINE FOR ESTABLISHMENT OF PERFORMANCE EVALUATION CRITERIA FOR BOARD MEMBERS.

(a) DEADLINE.—The job performance standards required to be established by section 7101A(f) of title 38, United States Code, as added by section 201(a), shall be established not later than 90 days after the date of the enactment of this Act.

(b) SUBMISSION TO CONGRESSIONAL COMMITTEES.—Not later than the date on which the standards referred to in subsection (a) take effect, the Secretary of Veterans Affairs shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives a report describing the standards established by the Chairman of the Board of Veterans' Appeals.

SEC. 203. CONTINUATION IN OFFICE OF CHAIRMAN PENDING APPOINTMENT OF SUCCESSOR.

Section 7101(b)(3) is amended by adding at the end the following new sentence: "If, upon the expiration of the term of office for which the Chairman was appointed, the position of Chairman would become vacant, the individual serving as Chairman may, with the approval of the Secretary, continue to serve as Chairman until either appointed to another term or a successor is appointed, but not beyond the end of the Congress during which the term of office expired.".

TITLE III—ADJUDICATION IMPROVEMENTS

SEC. 301. ACCEPTANCE OF CERTAIN DOCUMENTATION FOR CLAIMS PURPOSES.

(a) STATEMENTS OF CLAIMANT TO BE ACCEPTED AS PROOF OF RELATIONSHIPS.—Chapter 51 is amended by adding at the end the following new section:

"§5124. Acceptance of claimant's statement as proof of relationship

"(a) For purposes of benefits under laws administered by the Secretary, the Secretary may accept the written statement of a claimant as proof of the existence of any relationship specified in subsection (b) for the purpose of acting on such individual's claim for benefits.

"(b) Subsection (a) applies to proof of the existence of any of the following relationships between a claimant and another person:

"(1) Marriage.

"(2) Dissolution of a marriage.

"(3) Birth of a child.

"(4) Death of any family member.

"(c) The Secretary may require the submission of documentation in support of the claimant's statement if—

"(1) the claimant does not reside within a State;

"(2) the statement on its face raises a question as to its validity;

"(3) there is conflicting information of record; or

"(4) there is reasonable indication, in the statement or otherwise, of fraud or misrepresentation.".

(b) REPORTS OF EXAMINATIONS BY PRIVATE PHYSICIANS.—Such chapter, as amended by subsection (a), is further amended by adding at the end the following new section:

"§5125. Acceptance of reports of private physician examinations

"For purposes of establishing any claim for benefits under chapter 11 or 15 of this title, a report of a medical examination administered by a private physician that is provided by a claimant in support of a claim for benefits under that chapter may be accepted without a requirement for confirmation by an examination by a physician employed by the Veterans Health Administration if the report is sufficiently complete to be adequate for the purpose of adjudicating such claim.".

(c) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by adding at the end the following new items:

"5124. Acceptance of claimant's statement as proof of relationship.

"5125. Acceptance of reports of private physician examinations.".

SEC. 302. EXPEDITED TREATMENT OF REMANDED CLAIMS.

The Secretary of Veterans Affairs shall take such actions as may be necessary to provide for the expeditious treatment, by the Board of Veterans' Appeals and by the regional offices of the Veterans Benefits Administration, of any claim that has been remanded by the Board of Veterans' Appeals or by the United States Court of Veterans Appeals for additional development or other appropriate action.

SEC. 303. SCREENING OF APPEALS.

Section 7107 is amended—

(1) in subsection (a)(1), by striking out "Each case" and inserting in lieu thereof "Except as provided in subsection (f), each case"; and

(2) by adding at the end the following new subsection:

"(f) Nothing in this section shall preclude the screening of cases for purposes of—

"(1) determining the adequacy of the record for decisional purposes; or

"(2) the development, or attempted development, of a record found to be inadequate for decisional purposes.".

SEC. 304. REPORT ON FEASIBILITY OF REORGANIZATION OF ADJUDICATION DIVISIONS IN VBA REGIONAL OFFICES.

Not later than 180 days after the date of the enactment of this Act, the Secretary of Veterans

Affairs shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives a report addressing the feasibility and impact of a reorganization of the adjudication divisions located within the regional offices of the Veterans Benefits Administration to a number of such divisions that would result in improved efficiency in the processing of claims filed by veterans, their survivors, or other eligible persons for benefits administered by the Secretary.

TITLE IV—VETERANS' CLAIMS ADJUDICATION COMMISSION

SEC. 401. ESTABLISHMENT OF COMMISSION.

(a) ESTABLISHMENT OF COMMISSION.—There is hereby established a commission to be known as the Veterans' Claims Adjudication Commission (hereinafter in this title referred to as the "commission").

(b) MEMBERSHIP.—(1) The commission shall be composed of nine members, appointed by the Secretary of Veterans Affairs as follows:

(A) One member shall be appointed from among former officials of the Department of Veterans Affairs (or the Veterans' Administration).

(B) Two members shall be appointed from among individuals in the private sector who have expertise in the adjudication of claims relating to insurance or similar benefits.

(C) Two members shall be appointed from among individuals employed in the Federal Government (other than the Department of Veterans Affairs) who have expertise in the adjudication of claims for benefits under Federal law other than under laws administered by the Secretary of Veterans Affairs.

(D) Two members shall be appointed from among individuals recommended to the Secretary by representatives of veterans service organizations.

(E) One member shall be appointed based on a recommendation of the American Bar Association or a similar private organization from among individuals who have expertise in the field of administrative law.

(F) One member shall be appointed from among current officials of the Department of Veterans Affairs.

(2) The appointment of members of the commission under this subsection shall be made not later than February 1, 1995.

(c) PERIOD OF APPOINTMENT; VACANCIES.—Members of the commission shall be appointed for the life of the commission. A vacancy in the commission shall not affect its powers, but shall be filled in the same manner as the original appointment.

(d) INITIAL MEETING.—The commission shall hold its first meeting not later than 30 days after the date on which all members of the commission have been appointed.

(e) MEETINGS.—The commission shall meet at the call of the chairman.

(f) QUORUM.—A majority of the members of the commission shall constitute a quorum, but a lesser number may hold hearings.

(g) CHAIRMAN.—The Secretary shall designate a member of the commission (other than the commission member who is a current official of the Department of Veterans Affairs) to be chairman of the commission.

SEC. 402. DUTIES OF THE COMMISSION.

(a) IN GENERAL.—The commission shall carry out a study of the Department of Veterans Affairs system for the disposition of claims for veterans benefits.

(b) PURPOSE OF STUDY.—The purpose of the study is to evaluate the Department of Veterans Affairs system for the disposition of claims for veterans benefits in order to determine the following:

(1) The efficiency of current processes and procedures under the system for the adjudication, resolution, review, and final disposition of claims for veterans benefits, including the effect of judicial review on the system, and means of increasing the efficiency of the system.

(2) Means of reducing the number of claims under the system for which final disposition is pending.

(3) Means of enhancing the ability of the Department of Veterans Affairs to achieve final determination regarding claims under the system in a prompt and appropriate manner.

(c) CONTENTS OF STUDY.—The study to be carried out by the commission under this section is a comprehensive evaluation and assessment of the Department of Veterans Affairs system for the disposition of claims for veterans benefits (as defined in section 406) and of the system for the delivery of such benefits, together with any related issues that the commission determines are relevant to the study. The study shall include an evaluation and assessment of the following:

(1) The preparation and submission of claims by veterans under the system.

(2) The processes and procedures under the system for the disposition of claims, including—

(A) the scope and nature of the review undertaken with respect to a claim at each stage in the claims disposition process, including the role of hearings throughout the process;

(B) the number, Federal employment grade, and experience and qualifications required of the persons undertaking such review at each such stage;

(C) opportunities for the submittal of new evidence; and

(D) the availability of alternative means of completing claims.

(3) The effect on the system of the participation of attorneys, members of veterans service organizations, and other advocates on behalf of veterans.

(4) The effect on the system of actions taken by the Secretary to modernize the information management system of the Department, including the use of electronic data management systems.

(5) The effect on the system of any work performance standards used by the Secretary at regional offices of the Department and at the Board of Veterans' Appeals.

(6) The extent of the implementation in the system of the recommendations of the Blue Ribbon Panel on Claims Processing submitted to the Committees on Veterans' Affairs of the Senate and House of Representatives on December 2, 1993, and the effect of such implementation on the system.

(7) The effectiveness in improving the system of any pilot programs carried out by the Secretary at regional offices of the Department and of efforts by the Secretary to implement such programs throughout the system.

(8) The effectiveness of the quality control practices and quality assurance practices under the system in achieving the goals of such practices.

(d) COOPERATION OF SECRETARY.—Upon the request of the chairman of the commission, the Secretary shall, within 30 days of such request, submit to the commission, and to the Committees on Veterans' Affairs of the Senate and House of Representatives, such information as the chairman shall determine is necessary for the commission to carry out the study required under this section.

(e) REPORTS.—(1) Not later than one year after the date of the enactment of this Act, the commission shall submit to the Secretary and to the Committees on Veterans' Affairs of the Senate and House of Representatives a preliminary report on the study required under subsection (c). The report shall contain the preliminary findings and conclusions of the commission with respect to the evaluation and assessment required under the study.

(2) Not later than 18 months after such date, the commission shall submit to the Secretary and to such committees a report on such study. The report shall include the following:

(A) The findings and conclusions of the commission, including its findings and conclusions with respect to the matters referred to in subsection (c).

(B) The recommendations of the commission for means of improving the Department of Veterans Affairs system for the disposition of claims for veterans benefits.

(C) Such other information and recommendations with respect to the system as the commission considers appropriate.

SEC. 403. POWERS OF THE COMMISSION.

(a) HEARINGS.—The commission may hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence as the commission considers advisable to carry out the purposes of this title.

(b) INFORMATION FROM FEDERAL AGENCIES.—In addition to the information referred to in section 402(d), the commission may secure directly from any Federal department or agency such information as the commission considers necessary to carry out the provisions of this title. Upon request of the chairman of the commission, the head of such department or agency shall furnish such information to the commission.

(c) POSTAL SERVICES.—The commission may use the United States mails in the same manner and under the same conditions as other departments and agencies of the Federal Government.

(d) GIFTS.—The commission may accept, use, and dispose of gifts or donations of services or property.

SEC. 404. COMMISSION PERSONNEL MATTERS.

(a) COMPENSATION OF MEMBERS.—Each member of the commission who is not an officer or employee of the Federal Government shall be compensated at a rate equal to the daily equivalent of the annual rate of basic pay prescribed for level IV of the Executive Schedule under section 5315 of title 5, United States Code, for each day (including travel time) during which such member is engaged in the performance of the duties of the commission. All members of the commission who are officers or employees of the United States shall serve without compensation in addition to that received for their services as officers or employees of the United States.

(b) TRAVEL EXPENSES.—The members of the commission shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of services for the commission.

(c) STAFF.—(1) The chairman of the commission may, without regard to the civil service laws and regulations, appoint an executive director and such other personnel as may be necessary to enable the commission to perform its duties. The appointment of an executive director shall be subject to approval by the commission.

(2) The chairman of the commission may fix the compensation of the executive director and other personnel without regard to the provisions of chapter 51 and subchapter III of chapter 53 of title 5, United States Code, relating to classification of positions and General Schedule pay rates, except that the rate of pay for the executive director and other personnel may not exceed the rate payable for level V of the Executive Schedule under section 5316 of such title.

(d) DETAIL OF GOVERNMENT EMPLOYEES.—Upon request of the chairman of the commission, the head of any Federal department or agency may detail, on a nonreimbursable basis, any personnel of the department or agency to the commission to assist it in carrying out its duties.

(e) PROCUREMENT OF TEMPORARY AND INTERMITTENT SERVICES.—The chairman of the commission may procure temporary and intermittent services under section 3109(b) of title 5, United States Code, at rates for individuals which do not exceed the daily equivalent of the annual rate of basic pay prescribed for level V of the Executive Schedule under section 5316 of such title.

SEC. 405. TERMINATION OF THE COMMISSION.

The commission shall terminate 90 days after the date on which the commission submits its report under section 402(e)(2).

SEC. 406. DEFINITIONS.

For the purposes of this title:

(1) The term "Department of Veterans Affairs system for the disposition of claims for veterans benefits" means the processes and procedures of the Department of Veterans Affairs for the adjudication, resolution, review, and final disposition of claims for benefits under the laws administered by the Secretary.

(2) The term "Secretary" means the Secretary of Veterans Affairs.

(3) The term "veterans service organizations" means any organization approved by the Secretary under section 5902(a) of title 38, United States Code.

SEC. 407. FUNDING.

(a) FISCAL YEAR 1995.—From amounts appropriated to the Department of Veterans Affairs for fiscal year 1995 for the payment of compensation and pension, the amount of $400,000 is hereby made available for the activities of the commission under this title.

(b) AVAILABILITY.—Any sums appropriated to the commission shall remain available until expended.

TITLE V—MISCELLANEOUS PROVISIONS

SEC. 501. RESTATEMENT OF INTENT OF CONGRESS CONCERNING COVERAGE OF RADIATION-EXPOSED VETERANS COMPENSATION ACT OF 1988.

(a) RESTATEMENT OF ABSENCE OF STATUTORY LIMITATION TO UNITED STATES TESTS.—Clause (i) of section 1112(c)(3)(B) is amended by inserting "(without regard to whether the nation conducting the test was the United States or another nation)" after "nuclear device".

(b) PROOF OF SERVICE CONNECTION OF DISABILITIES RELATING TO EXPOSURE TO IONIZING RADIATION.—(1) Section 1113(b) is amended—

(A) by striking out "title or" and inserting in lieu thereof "title,"; and

(B) by inserting ", or section 5 of Public Law 98–542 (38 U.S.C. 1154 note)" after "of this section".

(2) The amendments made by paragraph (1) shall apply with respect to applications for veterans benefits that are submitted to the Secretary of Veterans Affairs after the date of the enactment of this Act.

SEC. 502. EXTENSION OF AUTHORITY TO MAINTAIN REGIONAL OFFICE IN THE PHILIPPINES.

Section 315(b) is amended by striking out "December 31, 1994" and inserting in lieu thereof "December 31, 1999".

SEC. 503. RENOUNCEMENT OF BENEFIT RIGHTS.

Section 5306 is amended by adding at the end the following new subsection:

"(c) Notwithstanding subsection (b), if a new application for pension under chapter 15 of this title or for dependency and indemnity compensation for parents under section 1315 of this title is filed within one year after renouncement of that benefit, such application shall not be treated as an original application and benefits will be payable as if the renouncement had not occurred.".

SEC. 504. CLARIFICATION OF PAYMENT OF ATTORNEY FEES UNDER CONTINGENT FEE AGREEMENTS.

(a) CLARIFICATION.—Subparagraph (A) of section 5904(d)(2) is amended to read as follows:

"(A) A fee agreement referred to in paragraph (1) is one under which the total amount of the fee payable to the attorney—

"(i) is to be paid to the attorney by the Secretary directly from any past-due benefits awarded on the basis of the claim; and

"(ii) is contingent on whether or not the matter is resolved in a manner favorable to the claimant.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply with respect to fee agreements entered into on or after the date of the enactment of this Act.

SEC. 505. CODIFICATION OF HERBICIDE-EXPOSURE PRESUMPTIONS ESTABLISHED ADMINISTRATIVELY.

Section 1116(a)(2) is amended by adding at the end the following new subparagraphs:

"(D) Hodgkin's disease becoming manifest to a degree of disability of 10 percent or more.

"(E) Porphyria cutanea tarda becoming manifest to a degree of disability of 10 percent or more within a year after the last date on which the veteran performed active military, naval, or air service in the Republic of Vietnam during the Vietnam era.

"(F) Respiratory cancers (cancer of the lung, bronchus, larynx, or trachea) becoming manifest to a degree of 10 percent or more within 30 years after the last date on which the veteran performed active military, naval, or air service in the Republic of Vietnam during the Vietnam era.

"(G) Multiple myeloma becoming manifest to a degree of disability of 10 percent or more.".

SEC. 506. TREATMENT OF CERTAIN INCOME OF ALASKA NATIVES FOR PURPOSES OF NEEDS-BASED BENEFITS.

Any receipt by an individual from a Native Corporation under the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.) of cash, stock, land, or other interests referred to in subparagraphs (A) through (E) of section 29(c) of that Act (43 U.S.C. 1626(c)) (whether such receipt is attributable to the disposition of real property, profits from the operation of real property, or otherwise) shall not be countable as income for purposes of any law administered by the Secretary of Veterans Affairs.

SEC. 507. ELIMINATION OF REQUIREMENT FOR PAYMENT OF CERTAIN BENEFITS IN PHILIPPINE PESOS.

(a) GENERAL RULE.—The second sentence of each of subsections (a) and (b) of section 107 is amended—

(1) by striking out "rate in pesos as is equivalent to" and inserting in lieu thereof "rate of"; and

(2) by striking out "rate in Philippine pesos as is equivalent to" and inserting in lieu thereof "rate of".

(b) SURVIVORS' AND DEPENDENTS' EDUCATIONAL ASSISTANCE.—Sections 3532(d) and 3565(b)(1) are amended by striking out "a rate in Philippine pesos equivalent to" and inserting in lieu thereof "the rate of".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to payments made after December 31, 1994.

SEC. 508. STUDY OF HEALTH CONSEQUENCES FOR FAMILY MEMBERS OF ATOMIC VETERANS OF EXPOSURE OF ATOMIC VETERANS TO IONIZING RADIATION.

(a) INTERAGENCY AGREEMENT.—The Secretary of Veterans Affairs shall enter into an agreement with the Medical Follow-Up Agency of the Institute of the Medicine of the National Academy of Sciences under which that agency shall convene a panel of appropriate individuals to carry out the evaluation described in subsection (b).

(b) EVALUATION OF FEASIBILITY OF STUDY.—(1) The panel convened under subsection (a) shall evaluate the feasibility of carrying out a study as described in subsection (c).

(2) The panel shall submit the results of the evaluation under paragraph (1) to the Secretary not later than 180 days after the date of the enactment of this Act. The Secretary shall promptly notify the Committees on Veterans' Affairs of the Senate and the House of Representatives of such results.

(c) DESCRIPTION OF STUDY TO BE EVALUATED.—The study referred to in subsection (b) (the feasibility of which is to be evaluated under that subsection by the panel convened under subsection (a)) is one which would determine the nature and extent, if any, of the relationship between the exposure of veterans described in subsection (d) to ionizing radiation and the following:

(1) Genetic defects and illnesses in the children and grandchildren of such veterans.

(2) Untoward pregnancy outcomes experienced by the wives of such veterans, including premature births, stillbirths, miscarriages, neonatal illnesses and deaths.

(3) Periparturient diseases of the mother which are the direct result of such untoward pregnancy outcomes.

(d) COVERED VETERANS.—Subsection (c) applies to—

(1) any veteran who was exposed (as determined by the Secretary) to ionizing radiation as a result of—

(A) participation while on active duty in the Armed Forces in an atmospheric nuclear test that included the detonation of a nuclear device;

(B) service in the Armed Forces with the United States occupation force of Hiroshima or Nagasaki, Japan, before July 1, 1946; or

(C) internment or detention as a prisoner of war of Japan before that date in circumstances providing the opportunity for exposure to ionizing radiation comparable to the exposure of individuals who served with such occupation force before that date; and

(2) any other veteran who the Secretary designates for coverage under the study.

SEC. 509. CENTER FOR MINORITY VETERANS AND CENTER FOR WOMEN VETERANS.

(a) IN GENERAL.—Chapter 3 is amended by striking out section 317 and inserting in lieu thereof the following new sections:

"§317. Center for Minority Veterans

"(a) There is in the Department a Center for Minority Veterans. There is at the head of the Center a Director.

"(b) The Director shall be a noncareer appointee in the Senior Executive Service. The Director shall be appointed for a term of six years.

"(c) The Director reports directly to the Secretary or the Deputy Secretary concerning the activities of the Center.

"(d) The Director shall perform the following functions with respect to veterans who are minorities:

"(1) Serve as principal adviser to the Secretary on the adoption and implementation of policies and programs affecting veterans who are minorities.

"(2) Make recommendations to the Secretary, the Under Secretary for Health, the Under Secretary for Benefits, and other Department officials for the establishment or improvement of programs in the Department for which veterans who are minorities are eligible.

"(3) Promote the use of benefits authorized by this title by veterans who are minorities and the conduct of outreach activities to veterans who are minorities, in conjunction with outreach activities carried out under chapter 77 of this title.

"(4) Disseminate information and serve as a resource center for the exchange of information regarding innovative and successful programs which improve the services available to veterans who are minorities.

"(5) Conduct and sponsor appropriate social and demographic research on the needs of veterans who are minorities and the extent to which

programs authorized under this title meet the needs of those veterans, without regard to any law concerning the collection of information from the public.

"(6) Analyze and evaluate complaints made by or on behalf of veterans who are minorities about the adequacy and timeliness of services provided by the Department and advise the appropriate official of the Department of the results of such analysis or evaluation.

"(7) Consult with, and provide assistance and information to, officials responsible for administering Federal, State, local, and private programs that assist veterans, to encourage those officials to adopt policies which promote the use of those programs by veterans who are minorities.

"(8) Advise the Secretary when laws or policies have the effect of discouraging the use of benefits by veterans who are minorities.

"(9) Publicize the results of medical research which are of particular significance to veterans who are minorities.

"(10) Perform such other duties consistent with this section as the Secretary shall prescribe.

"(e) The Secretary shall ensure that the Director is furnished sufficient resources to enable the Director to carry out the functions of the Center in a timely manner.

"(f) The Secretary shall include in documents submitted to Congress by the Secretary in support of the President's budget for each fiscal year—

"(1) detailed information on the budget for the Center;

"(2) the Secretary's opinion as to whether the resources (including the number of employees) proposed in the budget for that fiscal year are adequate to enable the Center to comply with its statutory and regulatory duties; and

"(3) a report on the activities and significant accomplishments of the Center during the preceding fiscal year.

"§318. Center for Women Veterans

"(a) There is in the Department a Center for Women Veterans. There is at the head of the Center a Director.

"(b) The Director shall be a noncareer appointee in the Senior Executive Service. The Director shall be appointed for a term of six years.

"(c) The Director reports directly to the Secretary or the Deputy Secretary concerning the activities of the Center.

"(d) The Director shall perform the following functions with respect to veterans who are women:

"(1) Serve as principal adviser to the Secretary on the adoption and implementation of policies and programs affecting veterans who are women.

"(2) Make recommendations to the Secretary, the Under Secretary for Health, the Under Secretary for Benefits, and other Department officials for the establishment or improvement of programs in the Department for which veterans who are women are eligible.

"(3) Promote the use of benefits authorized by this title by veterans who are women and the conduct of outreach activities to veterans who are women, in conjunction with outreach activities carried out under chapter 77 of this title.

"(4) Disseminate information and serve as a resource center for the exchange of information regarding innovative and successful programs which improve the services available to veterans who are women.

"(5) Conduct and sponsor appropriate social and demographic research on the needs of veterans who are women and the extent to which programs authorized under this title meet the needs of those veterans, without regard to any law concerning the collection of information from the public.

"(6) Analyze and evaluate complaints made by or on behalf of veterans who are women about the adequacy and timeliness of services provided by the Department and advise the appropriate official of the Department of the results of such analysis or evaluation.

"(7) Consult with, and provide assistance and information to, officials responsible for administering Federal, State, local, and private programs that assist veterans, to encourage those officials to adopt policies which promote the use of those programs by veterans who are women.

"(8) Advise the Secretary when laws or policies have the effect of discouraging the use of benefits by veterans who are women.

"(9) Publicize the results of medical research which are of particular significance to veterans who are women.

"(10) Advise the Secretary and other appropriate officials on the effectiveness of the Department's efforts to accomplish the goals of section 492B of the Public Health Service Act (relating to the inclusion of women and minorities in clinical research) and of particular health conditions affecting womens' health which should be studied as part of the Department's medical research program and promote cooperation between the Department and other sponsors of medical research of potential benefit to veterans who are women.

"(11) Provide support and administrative services to the Advisory Committee on Women Veterans established under section 542 of this title.

"(12) Perform such other duties consistent with this section as the Secretary shall prescribe.

"(e) The Secretary shall ensure that the Director is furnished sufficient resources to enable the Director to carry out the functions of the Center in a timely manner.

"(f) The Secretary shall include in documents submitted to Congress by the Secretary in support of the President's budget for each fiscal year—

"(1) detailed information on the budget for the Center;

"(2) the Secretary's opinion as to whether the resources (including the number of employees) proposed in the budget for that fiscal year are adequate to enable the Center to comply with its statutory and regulatory duties; and

"(3) a report on the activities and significant accomplishments of the Center during the preceding fiscal year.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by striking out the item relating to section 317 and and inserting in lieu thereof the following new items:

"317. Center for Minority Veterans.
"318. Center for Women Veterans.".

SEC. 510. ADVISORY COMMITTEE ON MINORITY VETERANS.

(a) ESTABLISHMENT.—Subchapter III of chapter 5 is amended by adding at the end the following new section:

"§544. Advisory Committee on Minority Veterans

"(a)(1) The Secretary shall establish an advisory committee to be known as the Advisory Committee on Minority Veterans (hereinafter in this section referred to as 'the Committee').

"(2)(A) The Committee shall consist of members appointed by the Secretary from the general public, including—

"(i) representatives of veterans who are minority group members;

"(ii) individuals who are recognized authorities in fields pertinent to the needs of veterans who are minority group members;

"(iii) veterans who are minority group members and who have experience in a military theater of operations; and

"(iv) veterans who are minority group members and who do not have such experience.

"(B) The Committee shall include, as ex officio members, the following:

"(i) The Secretary of Labor (or a representative of the Secretary of Labor designated by the Secretary after consultation with the Assistant Secretary of Labor for Veterans' Employment).

"(ii) The Secretary of Defense (or a representative of the Secretary of Defense designated by the Secretary of Defense).

"(iii) The Secretary of the Interior (or a representative of the Secretary of the Interior designated by the Secretary of the Interior).

"(iv) The Secretary of Commerce (or a representative of the Secretary of Commerce designated by the Secretary of Commerce).

"(v) The Secretary of Health and Human Services (or a representative of the Secretary of Health and Human Services designated by the Secretary of Health and Human Services).

"(vi) The Under Secretary for Health and the Under Secretary for Benefits, or their designees.

"(C) The Secretary may invite representatives of other departments and agencies of the United States to participate in the meetings and other activities of the Committee.

"(3) The Secretary shall determine the number, terms of service, and pay and allowances of members of the Committee appointed by the Secretary, except that a term of service of any such member may not exceed three years. The Secretary may reappoint any such member for additional terms of service.

"(4) The Committee shall meet as often as the Secretary considers necessary or appropriate, but not less often than twice each fiscal year.

"(b) The Secretary shall, on a regular basis, consult with and seek the advice of the Committee with respect to the administration of benefits by the Department for veterans who are minority group members, reports and studies pertaining to such veterans and the needs of such veterans with respect to compensation, health care, rehabilitation, outreach, and other benefits and programs administered by the Department.

"(c)(1) Not later than July 1 of each year, the Committee shall submit to the Secretary a report on the programs and activities of the Department that pertain to veterans who are minority group members. Each such report shall include—

"(A) an assessment of the needs of veterans who are minority group members with respect to compensation, health care, rehabilitation, outreach, and other benefits and programs administered by the Department;

"(B) a review of the programs and activities of the Department designed to meet such needs; and

"(C) such recommendations (including recommendations for administrative and legislative action) as the Committee considers appropriate.

"(2) The Secretary shall, within 60 days after receiving each report under paragraph (1), submit to Congress a copy of the report, together with any comments concerning the report that the Secretary considers appropriate.

"(3) The Committee may also submit to the Secretary such other reports and recommendations as the Committee considers appropriate.

"(4) The Secretary shall submit with each annual report submitted to the Congress pursuant to section 529 of this title a summary of all reports and recommendations of the Committee submitted to the Secretary since the previous annual report of the Secretary submitted pursuant to such section.

"(d) In this section, the term 'minority group member' means an individual who is—

"(1) Asian American;

"(2) Black;

"(3) Hispanic;

"(4) Native American (including American Indian, Alaskan Native, and Native Hawaiian); or

"(5) Pacific-Islander American.

"(e) The Committee shall cease to exist December 31, 1997.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by adding after the item relating to section 543 the following new item:

"544. Advisory Committee on Minority Veterans.".

SEC. 511. MAILING OF NOTICES OF APPEAL TO THE COURT OF VETERANS APPEALS.

(a) IN GENERAL.—Section 7266(a) is amended to read as follows:

"(a)(1) In order to obtain review by the Court of Veterans Appeals of a final decision of the Board of Veterans' Appeals, a person adversely affected by such decision shall file a notice of appeal with the Court within 120 days after the date on which notice of the decision is mailed pursuant to section 7104(e) of this title.

"(2) An appellant shall file a notice of appeal under this section by delivering or mailing the notice to the Court.

"(3) A notice of appeal shall be deemed to be received by the Court as follows:

"(A) On the date of receipt by the Court, if the notice is delivered.

"(B) On the date of the United States Post Service postmark stamped on the cover in which the notice is posted, if the notice is properly addressed to the Court and is mailed.

"(4) For a notice of appeal mailed to the Court to be deemed to be received under paragraph (3)(B) on a particular date, the United States Postal Service postmark on the cover in which the notice is posted must be legible. The Court shall determine the legibility of any such postmark and the Court's determination as to legibility shall be final and not subject to review by any other Court.".

(b) APPLICATION.—The amendment made by subsection (a) shall take effect on the date of the enactment of this Act and shall apply to notices of appeal that are delivered or mailed to the United States Court of Veterans Appeals on or after that date.

TITLE VI—EDUCATION AND TRAINING PROGRAMS

SEC. 601. FLIGHT TRAINING.

(a) ACTIVE DUTY PROGRAM.—Section 3034(d) is amended—

(1) by striking out paragraph (2);

(2) by striking out "(1)" after "(d)"; and

(3) by redesignating subparagraphs (A), (B), and (C) as paragraphs (1), (2), and (3), respectively.

(b) POST-VIETNAM ERA.—Section 3241(b) is amended—

(1) by striking out paragraph (2);

(2) by striking out "(1)" after "(b)"; and

(3) by redesignating subparagraphs (A), (B), and (C) as paragraphs (1), (2), and (3), respectively.

(c) RESERVE PROGRAM.—Section 2136(c) of title 10, United States Code, is amended—

(1) by striking out paragraph (2);

(2) by striking out "(1)" after "(c)"; and

(3) by redesignating subparagraphs (A), (B), and (C) as paragraphs (1), (2), and (3), respectively.

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect as of October 1, 1994.

SEC. 602. TRAINING AND REHABILITATION FOR VETERANS WITH SERVICE-CONNECTED DISABILITIES.

(a) REHABILITATION RESOURCES.—Section 3115 is amended—

(1) in subsection (a)—

(A) in paragraph (1)—

(i) by striking out "or" after "(including the Department of Veterans Affairs),"; and

(ii) by inserting "or of any federally recognized Indian tribe," after "financial assistance,"; and

(B) in paragraph (4), by inserting "any federally recognized Indian tribe," after "contributions,"; and

(2) by adding at the end the following:

"(c) For purposes of this section, the term 'federally recognized Indian tribe' means any Indian tribe, band, nation, pueblo, or other organized group or community, including any Alaska Native village or regional corporation as defined in or established pursuant to the Alaska Native Claims Settlement Act, which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.".

(b) ALLOWANCES.—Section 3108(c)(2) is amended by inserting "or federally recognized Indian tribe" after "local government agency".

(c) TECHNICAL CORRECTION.—(1) Section 404(b) of the Veterans' Benefits Act of 1992 (106 Stat. 4338) is amended by striking out the period at the end and inserting in lieu thereof ", but shall not apply to veterans and other persons who originally applied for assistance under chapter 31 of title 38, United States Code, before November 1, 1990.".

(2) The amendment made by paragraph (1) shall take effect as of October 29, 1992.

SEC. 603. ALTERNATIVE TEACHER CERTIFICATION PROGRAMS.

(a) IN GENERAL.—Section 3452(c) is amended by adding at the end the following: "For the period ending on September 30, 1996, such term includes any entity that provides training required for completion of any State-approved alternative teacher certification program (as determined by the Secretary).".

(b) CLARIFYING AMENDMENT.—Section 3002 is amended by adding at the end the following new paragraph:

"(8) The term 'educational institution' has the meaning given such term in section 3452(c) of this title.".

SEC. 604. EDUCATION OUTSIDE THE UNITED STATES.

(a) IN GENERAL.—The first sentence of section 3476 is amended to read as follows: "An eligible veteran may not enroll in any course offered by an educational institution not located in a State unless that educational institution is an approved institution of higher learning and the course is approved by the Secretary.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply with respect to courses approved on or after the date of the enactment of this Act.

SEC. 605. CORRESPONDENCE COURSES.

(a) APPROVAL OF PROGRAMS OF EDUCATION.—(1) Section 3672 is amended by adding at the end the following new subsection:

"(e) A program of education exclusively by correspondence, and the correspondence portion of a combination correspondence-residence course leading to a vocational objective, that is offered by an educational institution (as defined in section 3452(c) of this title) may be approved only if (1) the educational institution is accredited by an entity recognized by the Secretary of Education, and (2) at least 50 percent of those pursuing such a program or course require six months or more to complete the program or course.".

(2)(A) Section 3675(a)(2)(B) is amended by striking out "A State" and inserting in lieu thereof "Except as provided in section 3672(e) of this title, a State".

(B) Section 3680(a) is amended—

(i) by inserting "or" at the end of paragraph (2);

(ii) by striking out "; or" at the end of paragraph (3) and inserting in lieu thereof a period; and

(iii) by striking out paragraph (4).

(C) Section 3686(c) is amended by striking out "(other than one subject to the provisions of section 3676 of this title)".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply with respect to programs of education exclusively by correspondence and to correspondence-residence courses commencing more than 90 days after the date of the enactment of this Act.

SEC. 606. STATE APPROVING AGENCIES.

(a) REIMBURSEMENT.—(1) Section 3674(a)(4) is amended by striking out "$12,000,000" each place it appears and inserting in lieu thereof "$13,000,000".

(2) The amendments made by subsection (a) shall apply with respect to services provided under such section after September 30, 1994.

(b) ELIMINATION OF REQUIREMENT FOR QUARTERLY REPORT TO CONGRESS.—Section 3674(a)(3) is amended—

(1) by striking out subparagraph (B); and

(2) by striking out "(A)" after "(3)".

(c) EVALUATION OF AGENCY PERFORMANCE.—Section 3674A is amended—

(1) in subsection (a)—

(A) by striking out paragraph (3); and

(B) by redesignating paragraphs (4) and (5) as paragraphs (3) and (4), respectively; and

(2) in subsection (b)—

(A) by striking out "subsection (a)(5) of this section" both places it appears and inserting in lieu thereof "subsection (a)(4)"; and

(B) by inserting "of this title" after "section 3674(a)" both places it appears.

SEC. 607. MEASUREMENT OF COURSES.

Section 3688(b) is amended—

(1) by striking out "this chapter or" and inserting in lieu thereof "this chapter,"; and

(2) by inserting before the period at the end thereof the following: ", or chapter 106 of title 10".

SEC. 608. VETERANS' ADVISORY COMMITTEE ON EDUCATION.

Section 3692 is amended—

(1) in the first sentence of subsection (a)—

(A) by striking out "34,"; and

(B) by inserting "and chapter 106 of title 10" before the period at the end;

(2) in the first sentence of subsection (b), by striking out "this chapter" and all that follows through "of this title" and inserting in lieu thereof "this chapter, chapter 30, 32, and 35 of this title, and chapter 106 of title 10"; and

(3) in subsection (c), by striking out "December 31, 1994" and inserting in lieu thereof "December 31, 2003".

SEC. 609. CONTRACT EDUCATIONAL AND VOCATIONAL COUNSELING.

(a) PAYMENT LIMITATION.—Section 3697(b) is amended by striking out "$5,000,000" and inserting in lieu thereof "$6,000,000".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on October 1, 1994.

SEC. 610. SERVICE MEMBERS OCCUPATIONAL CONVERSION AND TRAINING ACT OF 1992.

(a) PERIOD OF TRAINING.—(1) Section 4485(d) of the Service Members Occupational Conversion and Training Act of 1992 (106 Stat. 2759; 10 U.S.C. 1143 note) is amended by striking out "or more than 18 months".

(2)(A) Section 4486(d)(2) of such Act (102 Stat. 2760; 10 U.S.C. 1143 note) is amended by striking out the period at the end thereof and inserting in lieu thereof the following: "in the community for the entire period of training of the eligible person.".

(B) The amendment made by subparagraph (A) shall apply with respect to programs of training under the Service Members Occupational Conversion and Training Act of 1992 beginning after the date of the enactment of this Act.

(b) PAYMENTS.—Section 4487 of such Act (106 Stat. 2762; 10 U.S.C. 1143 note) is amended—

(1) in subsection (a)(1)—

(A) by striking out "subparagraph (B)" in subparagraph (A) and inserting in lieu thereof "subparagraphs (B) and (C)";

(B) by inserting before the period at the end of subparagraph (A) the following: "but in no event to exceed hours equivalent to 18 months of training"; and

(C) by adding at the end the following new subparagraph:

"(C) Assistance may be paid under this subtitle on behalf of an eligible person to that person's employer for training under two or more programs of job training under this subtitle if such employer has not received (or is not due) on that person's behalf assistance in an amount aggregating the applicable amount set forth in subparagraph (B)."; and

(2) in subsection (b)(3), by inserting before the period at the end thereof ", or upon the completion of the 18th month of training under the last training program approved for the person's pursuit with that employer under this subtitle, whichever is earlier".

(c) ENTRY INTO PROGRAM OF JOB TRAINING.—Section 4488(a) of such Act (106 Stat. 2764; 10 U.S.C. 1143 note) is amended by striking out the third sentence thereof and inserting in lieu thereof "The eligible person may begin such program of job training with the employer on the day that notice is transmitted to such official by means prescribed by such official. However, assistance under this subtitle may not be provided to the employer if such official, within two weeks after the date on which such notice is transmitted, disapproves the eligible person's entry into that program of job training in accordance with this section.".

TITLE VII—EMPLOYMENT PROGRAMS

SEC. 701. JOB COUNSELING, TRAINING, AND PLACEMENT.

(a) DEPUTY ASSISTANT SECRETARY OF LABOR FOR VETERANS' EMPLOYMENT AND TRAINING.—Section 4102A(a) is amended—

(1) by striking out "(1)" and "(2)" and inserting in lieu thereof "(A)" and "(B)", respectively;

(2) by inserting "(1)" after "(a)"; and

(3) by adding at the end the following:

"(2) There shall be within the Department of Labor a Deputy Assistant Secretary of Labor for Veterans' Employment and Training. The Deputy Assistant Secretary shall perform such functions as the Assistant Secretary of Labor for Veterans' Employment and Training prescribes. The Deputy Assistant Secretary shall be a veteran.".

(b) DVOP SPECIALISTS COMPENSATION RATES.—Section 4103A(a)(1) is amended by striking out "a rate not less than the rate prescribed for an entry level professional" and inserting in lieu thereof "rates comparable to those paid other professionals performing essentially similar duties".

(c) SPECIAL UNEMPLOYMENT STUDY.—Subsection (a) of section 4110A is amended to read as follows:

"(a)(1) The Secretary, through the Bureau of Labor Statistics, shall conduct a study every two years of unemployment among each of the following categories of veterans:

"(A) Special disabled veterans.

"(B) Veterans of the Vietnam era who served in the Vietnam theater of operations during the Vietnam era.

"(C) Veterans who served on active duty during the Vietnam era who did not serve in the Vietnam theater of operations.

"(D) Veterans who served on active duty after the Vietnam era.

"(E) Veterans discharged or released from active duty within four years of the applicable study.

"(2) Within each of the categories of veterans specified in paragraph (1), the Secretary shall include a separate category for women who are veterans.

"(3) The Secretary shall promptly submit to Congress a report on the results of each study under paragraph (1).".

SEC. 702. EMPLOYMENT AND TRAINING OF VETERANS.

(a) FEDERAL CONTRACTS.—Section 4212(a) is amended by striking out "all of its suitable employment openings," in clause (1) of the third sentence and inserting in lieu thereof "all of its employment openings except that the contractor may exclude openings for executive and top management positions, positions which are to be filled from within the contractor's organization, and positions lasting three days or less,".

(b) ELIGIBILITY REQUIREMENTS FOR VETERANS UNDER FEDERAL EMPLOYMENT AND TRAINING PROGRAMS.—Section 4213 is amended—

(1) by striking out "chapters 11, 13, 31, 34, 35, and 36 of this title by an eligible veteran and" and inserting in lieu thereof "chapters 11, 13, 30, 31, 35, and 36 of this title by an eligible veteran,";

(2) by inserting "and any amounts received by an eligible person under chapter 106 of title 10," after "chapters 13 and 35 of such title, and"; and

(3) by striking out "the needs or qualifications of participants in" and inserting in lieu thereof "eligibility under".

SEC. 703. CONFORMING AMENDMENTS TO ERISA RELATING TO THE UNIFORMED SERVICES EMPLOYMENT AND REEMPLOYMENT RIGHTS ACT OF 1994.

(a) PERIOD OF CONTINUATION COVERAGE.—Section 602(2)(A) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1162(2)(A)) is amended by adding at the end the following new clause:

"(vi) SPECIAL RULE FOR ABSENCE FROM EMPLOYMENT BY REASON OF SERVICE IN THE UNIFORMED SERVICES.—In the case of a qualifying event described in section 603(2), resulting in an absence from employment by reason of service in the uniformed services to which section 4317 of title 38, United States Code, applies, if the covered employee makes an election under such section 4317, the date which is the earlier of—

"(I) 18 months after the date of the qualifying event, or

"(II) the day after the date on which the covered employee fails to apply for or return to a position of employment, as determined under section 4312(e) of such title 38.".

(b) PREMIUM REQUIREMENTS.—Section 602(3) of such Act (29 U.S.C. 1162(3)) is amended—

(1) by redesignating subparagraphs (A) and (B) as clauses (i) and (ii), respectively;

(2) by striking "The plan may require" and inserting the following:

"(A) IN GENERAL.—The plan may require";

(3) by adjusting the left-hand margination of subparagraph (A) and clauses (i) and (ii) thereof (as redesignated by paragraphs (1) and (2)) accordingly;

(4) in the last sentence of subparagraph (A) (as redesignated), by striking "subparagraph (A) of this paragraph" and inserting "clause (i) of this subparagraph"; and

(5) by adding at the end the following new subparagraph:

"(B) SPECIAL RULE FOR ABSENCE FROM EMPLOYMENT BY REASON OF SERVICE IN THE UNIFORMED SERVICES.—

"(i) LIMITATION ON EMPLOYEE PREMIUM.—In the case of a qualifying event described in section 603(2), resulting in an absence from employment by reason of service in the uniformed services to which section 4317 of title 38, United States Code, applies, if the covered employee makes an election under such section 4317 and the covered employee performed such service for less than 31 days, the portion of the premium which the covered employee is required to pay may not exceed the portion (if any) of the premium which the covered employee would have been required to pay but for the qualifying event.

"(ii) TREATMENT OF MULTIEMPLOYER PLANS.—In the case of a group health plan that is a multiemployer plan, any liability under the plan for the portion of the premium payable by the employer shall be allocated by the plan in such manner as the plan sponsor shall provide, except that, if the plan sponsor does not so provide, such liability shall be allocated by the plan—

"(I) to the last employer employing the covered employee before the period served by the covered employee in the uniformed services, or

"(II) if such last employer is no longer functional, to the plan.".

(c) ENFORCEMENT OF CONTINUATION COVERAGE REQUIREMENTS.—Section 607 of such Act (29 U.S.C. 1167) is amended by adding at the end the following new paragraph:

"(6) ENFORCEMENT OF PROVISIONS RELATING TO ABSENCE FROM EMPLOYMENT BY REASON OF SERVICE IN THE UNIFORMED SERVICES.—For purposes of part 5, the provisions of section 4317 of title 38, United States Code (as in effect on the effective date of this paragraph) shall be treated as provisions of this title to the extent such provisions relate to group health plans covered under this title. The remedies provided pursuant to this paragraph shall be in addition to remedies otherwise available under such title 38. An action or proceeding commenced under part 5 shall not preclude further recourse to remedies otherwise available under such title 38. The Secretary shall ensure that covered employees and other qualified beneficiaries commencing actions or proceedings under part 5 are informed of remedies also available under such title 38.".

(d) ENFORCEMENT OF RULES RELATING TO PENSION PLAN COVERAGE.—Section 204 of such Act (29 U.S.C. 1054) is amended—

(1) by redesignating subsection (i) as subsection (j); and

(2) by inserting after subsection (h) the following new subsection:

"(i) ENFORCEMENT OF PROVISIONS RELATING TO ABSENCE FROM EMPLOYMENT BY REASON OF SERVICE IN THE UNIFORMED SERVICES.—For purposes of part 5, the provisions of section 4318 of title 38, United States Code (as in effect on the effective date of this subsection) shall be treated as provisions of this title to the extent such provisions relate to pension plans covered under this title. The remedies provided pursuant to this subsection shall be in addition to remedies otherwise available under such title 38. An action or proceeding commenced under part 5 shall not preclude further recourse to remedies otherwise available under such title 38. The Secretary shall ensure that participants and beneficiaries commencing actions or proceedings under part 5 are informed of remedies also available under such title 38.".

(e) EFFECTIVE DATE AND TRANSITION RULES.—

(1) EFFECTIVE DATE.—The amendments made by this section shall take effect as if included in the enactment of section 2 of the Uniformed Services Employment and Reemployment Rights Act of 1994.

(2) TRANSITION RULES.—Section 8 of the Uniformed Services Employment and Reemployment Rights Act of 1994 shall apply with respect to the amendments made by this section in the same manner and to the same extent as such section applies with respect to sections 4317 and 4318 of title 38, United States Code (as amended by such Act).

TITLE VIII—CEMETERIES AND MEMORIAL AFFAIRS

SEC. 801. ELIGIBILITY FOR BURIAL IN NATIONAL CEMETERIES OF SPOUSES WHO PREDECEASE VETERANS.

Section 2402(5) is amended by inserting "spouse," after "The".

SEC. 802. RESTORATION OF BURIAL ELIGIBILITY FOR UNREMARRIED SPOUSES.

Section 2402(5), as amended by section 801, is further amended by inserting after "surviving spouse" the following: "(which for purposes of this chapter includes an unremarried surviving spouse who had a subsequent remarriage which was terminated by death or divorce)".

SEC. 803. EXTENSION OF AUTHORIZATION OF APPROPRIATIONS FOR STATE CEMETERY GRANT PROGRAM.

Paragraph (2) of section 2408(a) is amended by striking out "nine" and inserting in lieu thereof "fourteen".

SEC. 804. AUTHORITY TO USE FLAT GRAVE MARKERS AT THE WILLAMETTE NATIONAL CEMETERY, OREGON.

Notwithstanding section 2404(c)(2) of title 38, United States Code, the Secretary of Veterans Affairs may provide for flat grave markers at the Willamette National Cemetery, Oregon.

TITLE IX—HOUSING PROGRAMS

SEC. 901. ELIGIBILITY.

(a) RESERVISTS DISCHARGED BECAUSE OF A SERVICE-CONNECTED DISABILITY.—Section 3701(b)(5)(A) is amended—

(1) by inserting "(i)" before "who has"; and

(2) by striking out the period at the end and inserting in lieu thereof ", or (ii) who was discharged or released from the Selected Reserve before completing 6 years of service because of a service-connected disability.".

(b) SURVIVING SPOUSES OF RESERVISTS WHO DIED WHILE IN ACTIVE MILITARY, NAVAL, OR AIR SERVICE.—The second sentence of section 3701(b)(2) is amended—

(1) by inserting "or service in the Selected Reserve" after "duty" each place it appears; and

(2) by striking out "spouse shall" and inserting in lieu thereof "deceased spouse shall".

SEC. 902. REVISION IN COMPUTATION OF AGGREGATE GUARANTY.

Section 3702(b) is amended—

(1) in the matter preceding paragraph (1), by striking out "loan, if—" and inserting in lieu thereof "loan under the following circumstances:";

(2) in paragraph (1)—

(A) by striking out "the property" at the beginning of subparagraph (A) and inserting in lieu thereof "The property";

(B) by striking out the semicolon at the end and inserting in lieu thereof a period;

(3) in paragraph (2)—

(A) by striking out "a veteran-transferee" at the beginning and inserting in lieu thereof "A veteran-transferee";

(B) by striking out "; or" at the end and inserting in lieu thereof a period;

(4) in paragraph (3), by striking out "the loan" at the beginning of subparagraph (A) and inserting in lieu thereof "The loan";

(5) by inserting after paragraph (3) the following new paragraph:

"(4) In a case not covered by paragraph (1) or (2)—

"(A) the loan has been repaid in full and, if the Secretary has suffered a loss on the loan, the loss has been paid in full; or

"(B) the Secretary has been released from liability as to the loan and, if the Secretary has suffered a loss on the loan, the loss has been paid in full.";

(6) in the last sentence, by striking out "clause (1) of the preceding sentence" and inserting in lieu thereof "paragraph (1)"; and

(7) by adding at the end the following new sentence: "The authority of the Secretary under this subsection to exclude an amount of guaranty or insurance housing loan entitlement previously used by a veteran may be exercised only once for that veteran under the authority of paragraph (4).".

SEC. 903. PUBLIC AND COMMUNITY WATER AND SEWERAGE SYSTEMS.

Section 3704 is amended—

(1) by striking out subsection (e); and

(2) by redesignating subsections (f) and (g) as subsections (e) and (f), respectively.

SEC. 904. AUTHORITY TO GUARANTEE HOME REFINANCE LOANS FOR ENERGY EFFICIENCY IMPROVEMENTS.

(a) LOANS.—Section 3710(a) is amended by inserting after paragraph (10) the following new paragraph:

"(11) To refinance in accordance with subsection (e) an existing loan guaranteed, insured, or made under this chapter, and to improve the dwelling securing such loan through energy efficiency improvements, as provided in subsection (d).".

(b) AMOUNT OF GUARANTY.—Section 3710(e)(1) is amended—

(1) in the matter preceding subparagraph (A), by inserting "or for the purpose specified in subsection (a)(11)" after "subsection (a)(8)"; and

(2) in subparagraph (C), by striking out "may not exceed" and all that follows in such subparagraph and inserting in lieu thereof "may not exceed—

"(i) an amount equal to the sum of the balance of the loan being refinanced and such closing costs (including any discount permitted pursuant to section 3703(c)(3)(A) of this title) as may be authorized by the Secretary (under regulations which the Secretary shall prescribe) to be included in the loan; or

"(ii) in the case of a loan for the purpose specified in subsection (a)(11), an amount equal to the sum of the amount referred to with respect to the loan under clause (i) and the amount specified under subsection (d)(2);".

(c) FEE.—Section 3729(a)(2)(E) is amended by inserting "3710(a)(11)," after "3710(a)(9)(B)(i),".

SEC. 905. AUTHORITY TO GUARANTEE LOANS TO REFINANCE ADJUSTABLE RATE MORTGAGES TO FIXED RATE MORTGAGES.

Section 3710(e)(1)(A) is amended by inserting before the semicolon at the end the following: "or, in a case in which the loan is a fixed rate loan and the loan being refinanced is an adjustable rate loan, the loan bears interest at a rate that is agreed upon by the veteran and the mortgagee".

SEC. 906. MANUFACTURED HOME LOAN INSPECTIONS.

(a) CERTIFICATION OF CONFORMITY WITH STANDARDS.—Paragraph (2) of subsection (h) of section 3712 is amended to read as follows:

"(2) Any manufactured housing unit properly displaying a certification of conformity to all applicable Federal manufactured home construction and safety standards pursuant to section 616 of the National Manufactured Housing Construction and Safety Standards Act of 1974 (42 U.S.C. 5415) shall be deemed to meet the standards required by paragraph (1).".

(b) REPEAL OF INSPECTION REQUIREMENTS.—Subsection (j) of such section is amended by striking out "in the case of" the first place it appears and all that follows and inserting in lieu thereof "in the case of—

"(1) manufactured homes constructed by a manufacturer who fails or is unable to discharge the manufacturer's obligations under the warranty;

"(2) manufactured homes which are determined by the Secretary not to conform to the standards provided for in subsection (h); or

"(3) a manufacturer of manufactured homes who has engaged in procedures or practices determined by the Secretary to be unfair or prejudicial to veterans or the Government.".

(c) ELIMINATION OF REPORTING REQUIREMENT.—Subsection (l) of such section is amended—

(1) by striking out "the results of inspections required by subsection (h) of this section,"; and

(2) by striking out "of this section,".

SEC. 907. PROCEDURES ON DEFAULT.

(a) IN GENERAL.—Paragraph (7) of section 3732(c) is amended—

(1) in the matter preceding subparagraph (A), by striking out "that was the minimum amount for which, under applicable State law, the property was permitted to be sold at the liquidation sale";

(2) in subparagraph (A)—

(A) by striking out "the Secretary may accept conveyance of the property to the United States for a price not exceeding" and inserting in lieu thereof "(i) the amount was the minimum amount for which, under applicable State law, the property was permitted to be sold at the liquidation sale, the holder shall have the option to convey the property to the United States in return for payment by the Secretary of an amount equal to"; and

(B) by striking out "and" after "loan;" and inserting in lieu thereof "or";

(C) by adding at the end the following:

"(ii) there was no minimum amount for which the property had to be sold at the liquidation sale under applicable State law, the holder shall have the option to convey the property to the United States in return for payment by the Secretary of an amount equal to the lesser of such net value or total indebtedness; and"; and

(3) in subparagraph (B), by striking out "paragraph (6)(B)" and inserting in lieu thereof "paragraph (6)".

(b) CONFORMING AMENDMENT.—Paragraph (6) of such section is amended—

(1) by striking out "either";

(2) by striking out "sale or acquires" and all that follows through "(B) the" and inserting in lieu thereof "sale, the"; and

(3) by redesignating clauses (i) and (ii) as clauses (A) and (B), respectively.

SEC. 908. MINIMUM ACTIVE-DUTY SERVICE REQUIREMENT.

Subparagraph (F) of section 5303A(b)(3) is amended by inserting "or chapter 37" after "chapter 30" in the matter preceding clause (i).

TITLE X—HOMELESS VETERANS PROGRAMS

SEC. 1001. REPORTS ON ACTIVITIES OF THE DEPARTMENT OF VETERANS AFFAIRS TO ASSIST HOMELESS VETERANS.

(a) ANNUAL REPORT.—(1) Not later than April 15 of each year, the Secretary of Veterans Affairs shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives a report on the activities of the Department of Veterans Affairs during the year preceding the report under programs of the Department for the provision of assistance to homeless veterans.

(2) The report shall—

(A) set forth the number of homeless veterans provided assistance under those programs;

(B) describe the cost to the Department of providing such assistance under those programs; and

(C) provide any other information on those programs and on the provision of such assistance that the Secretary considers appropriate.

(b) BI-ANNUAL REQUIREMENT.—The Secretary shall include in the report submitted under subsection (a)(1) in 1995, and every two years thereafter, an evaluation of the effectiveness of the programs of the Department in providing assistance to homeless veterans.

(c) CONFORMING REPEAL.—Section 10 of Public Law 102–590 (106 Stat. 5141; 37 U.S.C. 7721 note) is repealed.

SEC. 1002. REPORT ON ASSESSMENT AND PLANS FOR RESPONSE TO NEEDS OF HOMELESS VETERANS.

(a) UPDATE OF ASSESSMENT.—Subsection (b) of section 107 of the Veterans' Medical Programs Amendments of 1992 (Public Law 102–405; 106 Stat. 1977; 38 U.S.C. 527 note) is amended by adding at the end the following new paragraph:

"(6) The Secretary shall require that the directors referred to in paragraph (1) update the assessment required under that paragraph during each of 1995, 1996, and 1997.".

(b) REPORTS ON ASSESSMENTS AND PLAN.—Subsection (i) of such section (106 Stat. 1978) is amended—

(1) by striking out "REPORT.—" and inserting in lieu thereof "REPORTS.—(1)"; and

(2) by adding at the end the following:

"(2) Not later than December 31, 1994, the Secretary shall submit to such committees a report that—

"(A) describes the results of the assessment carried out under subsection (b);

"(B) sets forth the lists developed under paragraph (1) of subsection (c); and

"(C) describes the progress, if any, made by the directors of the medical centers and the directors of the benefits offices referred to in such subsection (c) in developing the plan referred to in paragraph (2) of such subsection (c).

"(3) Not later than December 31 of each of 1995, 1996, and 1997, the Secretary shall submit to such committees a report that describes the update to the assessment that is carried out under subsection (b)(6) in the year preceding the report.".

SEC. 1003. INCREASE IN NUMBER OF DEMONSTRATION PROGRAMS UNDER HOMELESS VETERANS COMPREHENSIVE SERVICE PROGRAMS ACT OF 1992.

Section 2(b) of the Homeless Veterans Comprehensive Service Programs Act of 1992 (38 U.S.C. 7721 note) is amended in the first sentence by striking out "four" and inserting in lieu thereof "eight".

SEC. 1004. REMOVAL OF FUNDING REQUIREMENT OF HOMELESS VETERANS COMPREHENSIVE SERVICE PROGRAMS ACT OF 1992.

Section 12 of the Homeless Veterans Comprehensive Service Programs Act of 1992 (38 U.S.C. 7721 note) is amended by striking out the second sentence.

SEC. 1005. SENSE OF CONGRESS.

It is the sense of Congress that—

(1) of the funds appropriated for any fiscal year to support Federal programs which are designed to assist homeless individuals, a share more closely approximating the proportion of the population of homeless individuals who are veterans should be appropriated to the Secretary of Veterans Affairs for programs to assist homeless veterans that are administered by that Secretary;

(2) of the Federal grants made available to assist community organizations that assist homeless individuals, a share of such grants more closely approximating the proportion of the population of homeless individuals who are veterans should be provided to community organizations that provide assistance primarily to homeless veterans; and

(3) the Secretary of Veterans Affairs should take such actions as are necessary to ensure that Federal agencies that provide assistance, either directly or indirectly, to homeless individuals, including homeless veterans, are aware of and encouraged to make appropriate referrals to facilities of the Department of Veterans Affairs for benefits and services, such as health care, substance abuse treatment, counseling, and income assistance.

TITLE XI—REDUCTIONS IN DEPARTMENT OF VETERANS AFFAIRS PERSONNEL

SEC. 1101. FINDINGS.

Congress makes the following findings:

(1) Under proposals for national health care reform, the Department of Veterans Affairs will be required to provide health care services to veterans on a competitive basis with other health care providers.

(2) The elimination of positions from the Department that the Office of Management and Budget has scheduled to occur in fiscal years 1995 through 1999 would prevent the Department from meeting the responsibilities of the Department to provide health care to veterans under law and from maintaining the quality of health care that is currently provided to veterans.

SEC. 1102. REQUIREMENT FOR MINIMUM NUMBER OF FULL-TIME EQUIVALENT POSITIONS.

(a) IN GENERAL.—Chapter 7 is amended by adding at the end the following new section:

"§712. Full-time equivalent positions: limitation on reduction

"(a) Notwithstanding any other provision of law, the number of full-time equivalent positions in the Department of Veterans Affairs during the period beginning on the date of the enactment of this section and ending on September 30, 1999, may not (except as provided in subsection (c)) be less than 224,377.

"(b) In determining the number of full-time equivalent positions in the Department of Veterans Affairs during a fiscal year for purposes of ensuring under section 5(b) of the Federal Workforce Restructuring Act of 1994 (Public Law 103–226; 108 Stat. 115; 5 U.S.C. 3101 note) that the total number of full-time equivalent positions in all agencies of the Federal Government during a fiscal year covered by that section does not exceed the limit prescribed for that fiscal year under that section, the total number of full-time equivalent positions in the Department of Veterans Affairs during that fiscal year shall be the number equal to—

"(1) the number of such positions in the Department during that fiscal year, reduced by

"(2) the sum of—

"(A) the number of such positions in the Department during that fiscal year that are filled by employees whose salaries and benefits are paid primarily from funds other than appropriated funds; and

"(B) the number of such positions held during that fiscal year by persons involved in medical care cost recovery activities under section 1729 of this title.

"(c) The Secretary shall not be required to make a reduction in the number of full-time equivalent positions in the Department unless such reduction—

"(1) is necessary due to a reduction in funds available to the Department; or

"(2) is required under a law that is enacted after the date of the enactment of this section and that refers specifically to this section.

"(d) The Secretary shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives an annual report, through the year 2000, on the number and type of full-time equivalent positions in the Department that are reduced under this section. The report shall include a justification for the reductions and shall be submitted with the materials provided in support of the budget for the Department contained in the President's budget submitted to Congress for a fiscal year pursuant to section 1105 of title 31.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"712. Full-time equivalent positions: limitation on reduction.".

SEC. 1103. ENHANCED AUTHORITY TO CONTRACT FOR NECESSARY SERVICES.

Section 8110(c) is amended by striking out paragraph (7) and inserting in lieu thereof the following:

"(7) Paragraphs (1) through (6) shall not be in effect during fiscal years 1995 through 1999.

"(8) During the period covered by paragraph (7), whenever an activity at a Department health-care facility is converted from performance by Federal employees to performance by employees of a contractor of the Government, the Secretary shall—

"(A) require in the contract for the performance of such activity that the contractor, in hiring employees for the performance of the contract, give priority to former employees of the Department who have been displaced by the award of the contract; and

"(B) provide to such former employees of the Department all possible assistance in obtaining other Federal employment or entrance into job training and retraining programs.

"(9) The Secretary shall include in the Secretary's annual report to Congress under section 529 of this title, for each fiscal year covered by paragraph (7), a report on the use during the year covered by the report of contracting-out authority made available by reason of paragraph (7). The Secretary shall include in each such report a description of each use of such authority, together with the rationale for the use of such authority and the effect of the use of such authority on patient care and on employees of the Department.".

SEC. 1104. STUDY.

(a) REQUIREMENT.—The Secretary of Veterans Affairs shall enter into an agreement with an appropriate non-Federal entity under which the entity shall carry out a study of the feasibility and advisability of alternative organizational structures, such as the establishment of a wholly-owned Government corporation or a Government-sponsored enterprise, for the effective provision of health care services to veterans.

(b) SUBMISSION OF REPORT.—The Secretary shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives a report on the study required under subsection (a). The report shall be submitted not later than one year after the date of the enactment of this Act.

(c) AUTHORIZATION OF FUNDS.—There is hereby authorized to be appropriated for the Department of Veterans Affairs the sum of $1,000,000 for the purposes of carrying out the study required under subsection (a).

TITLE XII—TECHNICAL AND CLERICAL AMENDMENTS

SEC. 1201. AMENDMENTS TO TITLE 38, UNITED STATES CODE.

(a) REFERENCES TO "SECRETARY" AND "DEPARTMENT".—Title 38, United States Code, is amended as follows:

(1) Paragraph (1) of section 101 is amended to read as follows:

"(1) The terms 'Secretary' and 'Department' mean the Secretary of Veterans Affairs and the Department of Veterans Affairs, respectively.".

(2) Section 1532(c) is amended by striking out "Secretary" and inserting in lieu thereof "Veterans' Administration".

(3) Section 3745(a) is amended by striking out "Secretary" after "consult with the" and inserting in lieu thereof "Administrator".

(4) Section 4102A(e) is amended by striking out "Regional Secretary" both places it appears and inserting in lieu thereof "Regional Administrator".

(5) Section 4110(d)(9) is amended by striking out "Secretary of the Small Business Administration" and inserting in lieu thereof "Administrator of the Small Business Administration".

(b) REFERENCES TO DEPARTMENT OF MEDICINE AND SURGERY.—

(1) The following sections of title 38, United States Code, are amended by striking out "Department of Medicine and Surgery" each place it appears and inserting in lieu thereof "Veterans Health Administration": sections 3120(a), 3120(f), 3121(a)(3), 7603(a), 7603(c)(1)(B), 7604(1)(B), 7604(2)(D), 7612(c)(1)(B), 7615, 7616(b)(2), 7616(c), 7622(b)(1), 7622(c)(2)(A), 7623(b), 7635(a)(1), 7635(a)(2), and 8110(a).

(2) Section 7622(c)(2)(B) of such title is amended by striking out "such Department" and inserting in lieu thereof "the Veterans Health Administration".

(c) CONFORMING AMENDMENTS RELATING TO CONVERSION OF POSITIONS OF CHIEF MEDICAL DIRECTOR AND CHIEF BENEFITS DIRECTOR TO UNDER SECRETARY POSITIONS.—Title 38, United States Code, is amended as follows:

(1) Section 305 is amended—

(A) in subsection (a)(1), by striking out "a Under Secretary" and inserting in lieu thereof "an Under Secretary"; and

(B) in subsection (d)(2)(F), by striking out "Under Secretary" the second place it appears and all that follows through the closing parenthesis and inserting in lieu thereof "Chief Medical Director of the Veterans' Administration)".

(2) Section 306 is amended—

(A) in subsection (a), by striking out "a Under Secretary" and inserting in lieu thereof "an Under Secretary"; and

(B) in subsection (d)(2)(F), by striking out "Under Secretary" the second place it appears and all that follows through the closing parenthesis and inserting in lieu thereof "Chief Benefits Director of the Veterans' Administration)".

(3) Section 7306 is amended—

(A) in subsection (a)—

(i) in paragraph (3), by striking out "Assistant Chief Medical Directors" and inserting in lieu thereof "Assistant Under Secretaries for Health";

(ii) by redesignating the last three paragraphs as paragraphs (8), (7), and (9) respectively;

(iii) by reversing the order in which the penultimate and antepenultimate paragraphs appear; and

(iv) in paragraph (8), as so redesignated, by striking out "Chief Medical Director" and inserting in lieu thereof "Under Secretary for Health";

(B) in subsection (b), by striking out "Assistant Chief Medical Directors" in the matter preceding paragraph (1) and inserting in lieu thereof "Assistant Under Secretaries for Health"; and

(C) in subsection (c), by striking out "and (7)" and inserting in lieu thereof "and (8)".

(4) Section 7314(d) is amended—

(A) in paragraph (1)—

(i) by striking out "the Chief Medical Director and the Secretary to carry out" and inserting in lieu thereof "the Secretary and the Under Secretary for Health in carrying out"; and

(ii) by striking out "the Assistant Chief Medical Director described in section 7306(b)(3)" and inserting in lieu thereof "the Assistant Under Secretary for Health described in section 7306(b)(3)"; and

(B) in paragraph (3), by striking out "Assistant Chief Medical Director" both places it appears and inserting in lieu thereof "Assistant Under Secretary".

(5) Section 7318 is amended by striking out "Chief Medical Director" each place it appears and inserting in lieu thereof "Under Secretary for Health".

(6) Section 7440(1) is amended by striking out "Chief Medical Director's" and inserting in lieu thereof "Under Secretary for Health's".

(7) Section 7451(g)(1) is amended by striking out "Chief Medical Director's" and inserting in lieu thereof "Under Secretary for Health's".

(d) CROSS REFERENCE AMENDMENTS TO PROVISIONS OF TITLE 38.—Title 38, United States Code, is amended as follows:

(1) Section 115 is amended by striking out "sections 230" and inserting in lieu thereof "sections 314, 315, 316,".

(2) Section 1710(f)(3)(E) is amended by striking out "section 1712(f)" and "section 1712(f)(4)" inserting in lieu thereof "section 1712(a)" and "section 1712(f)", respectively.

(3) Section 1712 is amended—

(A) in subsection (i)(5), by striking out "section 1722(a)(1)(C)" and inserting in lieu thereof "section 1722(a)(3)"; and

(B) in subsection (j), by striking out "Section 4116" and inserting in lieu thereof "Section 7316".

(4) Section 3018A(d)(3) is amended by striking out "section 3015(e)" and inserting in lieu thereof "section 3015(f)".

(5) Section 3018B(d)(3) is amended by striking out "section 3015(e)" and inserting in lieu thereof "section 3015(f)".

(6) Section 3032(f)(3) is amended by striking out "(c), or (d)(1)" and inserting in lieu thereof "(d), or (e)(1)".

(7) Section 3035(b) is amended—

(A) in paragraph (2), by striking out "section 3015(c)" and inserting in lieu thereof "section 3015(d)"; and

(B) in paragraph (3)(C), by striking out "section 3015(e)" and inserting in lieu thereof "section 3015(f)".

(8) Section 3103(b)(3) is amended by striking out "section 3102(1)(A)" and inserting in lieu thereof "section 3102(1)(A)(i)".

(9) Section 3106(a) is amended by striking out "section 3102(1)(A) or (B)" and inserting in lieu thereof "clause (i) or (ii) of section 3102(1)(A)".

(10) Section 3113(a) is amended by striking out "section 3102(1)(B) and (2)" and inserting in lieu thereof "subparagraphs (A)(ii) and (B) of section 3102(1)".

(11) Section 3120(b) is amended by striking out "section 3012(1)(A)" and inserting in lieu thereof "section 3102(1)(A)(i)".

(12) Section 3241(c) is amended by striking out "1663,".

(13) Section 3735(a)(1)(A) is amended by striking out "section 3402" and inserting in lieu thereof "section 5902".

(14) Section 4103(c)(2) is amended by striking out "subchapter IV of chapter 3" and inserting in lieu thereof "subchapter II of chapter 77".

(15) Section 5104(a) is amended by striking out "section 211(a)" and inserting in lieu thereof "section 511".

(16) Section 8103(d)(6)(A) is amended by striking out "section 230(c)" and inserting in lieu thereof "section 316".

(17) Section 8110(c)(3)(B) is amended by striking out "section 213 or 4117" and inserting in lieu thereof "section 513 or 7409".

(18) Section 8135(a)(3) is amended by striking out "section 8134(2)" and inserting in lieu thereof "section 8134(a)(2)".

(19) Section 8155(a) is amended by striking out "section 4112" and inserting in lieu thereof "section 7312".

(20) Section 8201(c) is amended by striking out "section 4112(a)" and inserting in lieu thereof "section 7312(a)".

(e) PUNCTUATION, CAPITALIZATION, SPELLING, ETC.—Title 38, United States Code, is amended as follows:

(1) Section 111(b)(3)(B) is amended by striking out "the Department facility" and inserting in lieu thereof "a Department facility".

(2) Sections 305(d)(2)(F) and 306(d)(2)(F) are amended by striking out "Commission" and inserting in lieu thereof "commission".

(3) Section 312(a) is amended by striking out "(5 U.S.C. App. 3)" and inserting in lieu thereof "(5 U.S.C. App.)".

(4) Section 317(b)(2) is amended by striking out "provided, by the" and inserting in lieu thereof "provided by, the".

(5) Section 711(d) is amended by striking out "Committees" and inserting in lieu thereof "committees".

(6) Section 1116(a)(1)(B) is amended by striking out "(1)" and "(2)" and inserting in lieu thereof "(i)" and "(ii)", respectively.

(7) Section 1722A(a)(1) is amended by striking out the closing parenthesis after "veteran" in the first sentence.

(8) Section 1969(e) is amended—

(A) by striking out "sections 1971 (a) and (c)" and inserting in lieu thereof "subsections (a) and (c) of section 1971"; and

(B) by striking out "sections 1971 (d) and (e)" and inserting in lieu thereof "subsections (d) and (e) of section 1971".

(9) Section 1977(f) is amended by striking out "sections 1971 (d) and (e)" and inserting in lieu thereof "subsections (d) and (e) of section 1971".

(10) Section 3011(f)(1) is amended by striking out "whose length" and inserting in lieu thereof "the length of which".

(11) Section 3018B(d) is amended—

(A) in paragraph (1), by striking out "(a)(2)(D) of this subsection" and inserting in lieu thereof "(a)(2)(D) of this section"; and

(B) in paragraph (3)—

(i) by striking out "such Account" and inserting in lieu thereof "such account"; and

(ii) by striking out "this chapter" and inserting in lieu thereof "this title".

(12) Section 3688(a)(6) is amended by inserting a comma after "3241(a)(2)".

(13) Section 3706 is amended by striking out "of this chapter" the second and third places it appears and inserting in lieu thereof "of this title".

(14) Section 3712 is amended—

(A) in subsection (c)(3)—

(i) by inserting "of" in subparagraph (D) after "subparagraph (B)"; and

(ii) by striking out "of this subsection" in subparagraph (E) and inserting in lieu thereof "of this paragraph"; and

(B) in subsection (m), by striking out "section 3704(d) and section 3721 of this chapter" and inserting in lieu thereof "sections 3704(d) and 3721 of this title".

(15) Section 3713(b) is amended in the last sentence by striking out "subsection 5302(b) of this title, if eligible thereunder" and inserting in lieu thereof "section 5302(b) of this title, if the veteran is eligible for relief under that section".

(16) Section 5702 is amended—

(A) by inserting "(a)" before "Any person desiring";

(B) by striking out "custody of" and all that follows through "stating" and inserting in lieu thereof "custody of the Secretary that may be disclosed under section 5701 of this title must submit to the Secretary an application in writing for such copy. The application shall state"; and

(C) in subsection (c), by striking out "is authorized to fix" and inserting in lieu thereof "may establish".

(17) Section 6101(a) is amended by inserting a comma after "title 18".

(18) Section 6103(d)(1) is amended in the second sentence—

(A) by striking out "(a)" and "(b)" and inserting in lieu thereof "(A)" and "(B)", respectively; and

(B) by striking out "prior to" and inserting in lieu thereof "before".

(19) Section 6105(c) is amended—

(A) in the first sentence, by striking out "clauses (2), (3), or (4) of subsection (b) of this section" and inserting in lieu thereof "paragraph (2), (3), or (4) of subsection (b)";

(B) in the second sentence, by striking out "clause (1) of that subsection" and inserting in lieu thereof "paragraph (1) of subsection (b)"; and

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(C) by transposing the two sentences of that subsection (as so amended).

(20) Section 7312(d) is amended by striking out "the advisory groups activities" and inserting in lieu thereof "the activities of the advisory group".

(21) Section 7408(a) is amended by striking out "civil-service" and inserting in lieu thereof "civil service".

(22) Sections 7433(b)(3)(A) and 7435(b)(3)(A) are amended by striking out "nation-wide" and inserting in lieu thereof "nationwide".

(23) Section 7451(d)(3)(C)(i)(I) is amended by striking out "labor market area" and inserting in lieu thereof "labor-market area".

(24) Section 7453 is amended by striking out "subsections" in subsections (f) and (g) and inserting in lieu thereof "subsection".

(25) Section 7601(a) is amended by striking out the comma at the end of paragraph (1) and inserting in lieu thereof a semicolon.

(26) Section 7604 is amended by striking out "subchapters" in paragraphs (1)(A), (2)(D), and (5) and inserting in lieu thereof "subchapter".

(27) Section 8126 is amended—

(A) in subsection (e)(1)(A), by striking out "1-year" and inserting in lieu thereof "one-year"; and

(B) in subsection (f)(2), by striking out ", and" and inserting in lieu thereof a period.

(f) DATE OF ENACTMENT REFERENCES.—Title 38, United States Code, is amended as follows:

(1) Section 1922A(b) is amended by striking out "insurance not later than" and all that follows through "that the Department" and inserting in lieu thereof "insurance. Such application must be filed not later than (1) October 31, 1993, or (2) the end of the one-year period beginning on the date on which the Secretary".

(2) Sections 3011(e) and 3012(f) are amended by striking out "the end of the 24-month period beginning on the date of the enactment of this subsection" and inserting in lieu thereof "October 28, 1994,".

(3) Section 3018B(a)(2)(A) is amended by striking out "the date of enactment of this section" and inserting in lieu thereof "October 23, 1992,".

(4) Section 3702(a)(2)(E) is amended by striking out "For the 7-year period beginning on the date of enactment of this subparagraph," and inserting in lieu thereof "For the period beginning on October 28, 1992, and ending on October 27, 1999,".

(5) Section 6103(d)(2) is amended by striking out "the date of enactment of this amendatory Act" and inserting in lieu thereof "June 30, 1972".

(6) Section 8126 is amended—

(A) in subsection (e)(1)(A), by striking out "30 days after the date of the enactment of this section" and inserting in lieu thereof "December 4, 1992"; and

(B) in subsection (g), by striking out "the date of the enactment of this section" in paragraphs (1) and (2) and inserting in lieu thereof "November 4, 1992".

(g) OBSOLETE OR EXECUTED PROVISIONS.—Title 38, United States Code, is amended as follows:

(1) Section 312(b) is amended by striking out paragraph (3).

(2) Section 1524(a)(2) is amended by striking out "Subject to paragraph (3) of this subsection, if" and inserting in lieu thereof "If".

(3) Section 4110(c)(1) is amended by striking out "shall, within 90 days after the date of the enactment of this section, appoint" and inserting in lieu thereof "shall appoint".

(4)(A) Section 5505 is repealed.

(B) The table of sections at the beginning of chapter 55 is amended by striking out the item relating to section 5505.

(5) Section 7311 is amended by striking out subsections (f) and (g).

(6) Section 7453(i)(3) is amended by striking out "of title 5".

(7) Section 8110(c) is amended by striking out paragraph (7).

(8) Section 8111(b) is amended—

(A) in paragraph (2)—

(i) by striking out "During fiscal years 1982 and 1983" in the second sentence and inserting in lieu thereof "During odd-numbered fiscal years";

(ii) by striking out "During fiscal year 1984" in the third sentence and inserting in lieu thereof "During even-numbered fiscal years"; and

(iii) by striking out the fourth sentence; and

(B) in paragraph (4), by striking out "Within nine months of the date of the enactment of this subsection and at such times thereafter as" and inserting in lieu thereof "At such times as".

(h) AMENDMENTS TO HEADINGS AND TABLES OF CONTENTS.—Title 38, United States Code, is amended as follows:

(1) The table of chapters before part I and the table of chapters at the beginning of part III are amended by striking out the item relating to chapter 42 and inserting in lieu thereof the following:

"42. Employment and Training of Veterans ..... 4211".

(2) The heading of section 2106 is amended by revising each word after the first word so that the initial letter of each such word is lower case.

(3) The item relating to subchapter III in the table of sections at the beginning of chapter 73 is amended to read as follows:

"SUBCHAPTER III—PROTECTION OF PATIENT RIGHTS".

(4) The heading of section 7458 is amended to read as follows:

"§7458. Recruitment and retention bonus pay".

(5) The heading of chapter 81 is amended by inserting "**ENHANCED-USE**" before "**LEASES OF REAL**".

(6) The item relating to section 8126 in the table of sections at the beginning of chapter 81 is amended to read as follows:

"8126. Limitation on prices of drugs procured by Department and certain other Federal agencies.".

(i) OTHER MISCELLANEOUS CORRECTIONS.—Title 38, United States Code, is amended as follows:

(1) Section 1718(c)(1) is amended by inserting "of Veterans Affairs" after "Department" in the first sentence.

(2) Section 1922(b)(4) is amended by striking out "Notwithstanding" and all that follows through "title," and inserting in lieu thereof "Notwithstanding section 1917 of this title,".

(3) Section 1969(d)(3) is amended by striking out "'General Operating Expenses, Department'" and inserting in lieu thereof "'General Operating Expenses, Department of Veterans Affairs'".

(4) Section 3018A(a)(1) is amended by striking "after December 31, 1990," and all that follows through "whichever is later," and inserting in lieu thereof "after February 2, 1991,".

(5) Section 3121(a)(3) is amended by striking out "Department of Veterans' Benefits" and inserting in lieu thereof "Veterans Benefits Administration".

(6) Section 3680(a)(C) is amended by striking out "1 full" and inserting in lieu thereof "one full".

(7) Section 4110(e)(3)(B) is amended—

(A) by striking out ", United States Code,"; and

(B) by striking out "the Board" and inserting in lieu thereof "the advisory committee".

(8) Section 5110 is amended by striking out subsection (m).

(9) Section 7315(b)(2) is amended by striking out "Department" and inserting in lieu thereof "Veterans' Administration".

(10) Section 8111(f)(6) is amended by inserting "of Defense" after "the Secretary" the second place it appears.

(11) Section 8502(d) is amended by striking out "General Post Fund, National Homes, Department," and inserting in lieu thereof "General Post Fund, National Homes, Department of Veterans Affairs,".

SEC. 1202. AMENDMENTS TO OTHER LAWS ADMINISTERED BY SECRETARY OF VETERANS AFFAIRS.

(a) PUBLIC LAW 102-54.—Effective as of June 13, 1991, and as if included in the enactment of Public Law 102-54, Public Law 102-54 is amended as follows:

(1) Section 13(e) (105 Stat. 275) is amended by striking out "subsection (b)(10)" and inserting in lieu thereof "subsection (c)(10)".

(2) Section 15(a)(1)(A) (105 Stat. 289) is amended by inserting "the first place it appears" before "in the first sentence".

(b) PUBLIC LAW 102-83.—Effective as of August 6, 1991, and as if included in the enactment of Public Law 102-83, section 4(a) of Public Law 102-83 (105 Stat. 403) is amended as follows:

(1) Paragraph (2)(E) is amended by striking out "Section 601(4)" and inserting in lieu thereof "Section 601(3)".

(2) Paragraph (4) is amended by adding at the end the following:

"(E) Sections 7314(b)(1) and 7315(b)(2).".

(c) PUBLIC LAW 102-86.—Section 403(b)(4) of the Veterans' Benefits Programs Improvement Act of 1991 (Public Law 102-86; 105 Stat. 423; 36 U.S.C. 493(b)(4)) is amended by striking out "section 235" and inserting in lieu thereof "section 707".

(d) PUBLIC LAW 102-547.—Section 10(b)(2) of the Veterans Home Loan Program Amendments of 1992 (106 Stat. 3643; 38 U.S.C. 3703 note) is amended by striking out "paragraph 4" and inserting in lieu thereof "paragraph (4)".

(e) PUBLIC LAW 102-585.—The Veterans Health Care Act of 1992 (Public Law 102-585) is amended as follows:

(1) Section 202 (38 U.S.C. 8111 note) is amended by striking out "the Chief Medical Director" and inserting in lieu thereof "the Under Secretary for Health of the Department of Veterans Affairs".

(2) Section 511(c) (38 U.S.C. 7318 note) is amended by striking out "Chief Medical Director" each place it appears and inserting in lieu thereof "Under Secretary for Health".

SEC. 1203. AMENDMENTS TO OTHER LAWS.

(a) PUBLIC HEALTH SERVICE ACT.—The Public Health Service Act is amended as follows:

(1) Section 502(b)(2)(D) (42 U.S.C. 290aa-1(b)(2)(D)) is amended to read as follows:

"(D) the Under Secretary for Health of the Department of Veterans Affairs;".

(2) Section 542(b)(2) (42 U.S.C. 290dd-1(b)(2)) is amended by striking out "Chief Medical Director" and inserting in lieu thereof "Under Secretary for Health".

(3) Section 2604(b)(2)(A) (42 U.S.C. 300ff-14(b)(2)(A)) is amended by striking out "Veterans Administration facilities" and inserting in lieu thereof "Department of Veterans Affairs facilities".

(b) MISCELLANEOUS DEPARTMENT AND SECRETARY REFERENCES.—Section 5102(c)(3) of title 5, United States Code, is amended by striking out the comma after "Department of Veterans Affairs".

(c) MISCELLANEOUS CROSS-REFERENCE CORRECTIONS.—

(1) Section 1204(a)(1) of title 5, United States Code, is amended by striking out "section 4323" and inserting in lieu thereof "section 4303".

(2) Section 441(b)(2)(B) of the Job Training Partnership Act (29 U.S.C. 1721(b)(2)(B)) is amended—

(A) by striking out "subchapter IV of chapter 3" and inserting in lieu thereof "subchapter II of chapter 77"; and

(B) by striking out "sections 612A, 620A, 1787, and 2003A" and inserting in lieu thereof "sections 1712A, 1720A, 3687, and 4103A".

(3) Section 107 of the Local Public Works Capital Development and Investment Act of 1976 (42 U.S.C. 6706) is amended by striking out "section 4211(2)(A)" and "section 2011(1)" inserting in lieu thereof "section 4211(2)" and "section 4211(1)", respectively.

(4) Section 4(g)(2) of the Employment Act of 1946 (15 U.S.C. 1022a(g)(2)) is amended—

(A) by striking out "this subsection" and inserting in lieu thereof "this section"; and

(B) by striking out "section 2011(1) or (2)(A)" and inserting in lieu thereof "section 4211(1) or (2)".

Amend the title so as to read: "An Act to amend title 38, United States Code, to revise and improve veterans' benefits programs, and for other purposes.".

DOMESTIC VIOLENCE COURT EVIDENCE

The text of the concurrent resolution (S. Con. Res. 21) expressing the sense of the Congress that expert testimony concerning the nature and effect of domestic violence, including descriptions of the experiences of battered women, should be admissible if offered in a State court by a defendant in a criminal case, as agreed to by the Senate on October 7, 1994, is as follows:

S. CON. RES. 21

Whereas State criminal courts often fail to admit expert testimony offered by a defendant concerning the nature and effect of physical, sexual, and mental abuse to assist the trier of fact in assessing the behavior, beliefs, or perceptions of such defendant in a domestic relationship in which abuse has occurred;

Whereas the average juror often has little understanding of the nature and effect of domestic violence on the behavior, beliefs, or perceptions of such a defendant, and the lack of understanding can result in the juror blaming the woman for the victimization of the woman;

Whereas the average juror is often unaware that victims of domestic violence are frequently in greater danger of violence after the victims terminate or attempt to terminate domestic relationships with their abusers;

Whereas myths, misconceptions, and victim-blaming attitudes are often held not only by the average layperson but also by many in the criminal justice system, insofar as the criminal justice system traditionally has failed to protect women from violence at the hands of men;

Whereas specialized knowledge of the nature and effect of domestic violence is sufficiently established to have gained the general acceptance that is required for the admissibility of expert testimony;

Whereas, although both men and women can be victims of physical, sexual, and mental abuse by their partners in domestic relationships, the most frequent victims are women; and

Whereas a woman is more likely to be assaulted and injured, raped, or killed by the current or former male partner of the woman than by any other type of assailant, and over one-half of all women murdered are killed by their current or former male partners: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That it is the sense of Congress that—

(1) expert testimony concerning the nature and effect of domestic violence, including descriptions of the experiences of battered women, should be admissible if offered in a State court by a defendant in a criminal case to assist the trier of fact in understanding the behavior, beliefs, or perceptions of such defendant in a domestic relationship in which abuse has occurred;

(2) a witness should be qualified to testify as an expert witness, with respect to a case in which abuse has occurred, based upon the knowledge, skill, experience, training, or education of the witness, and should be permitted to testify in the form of an opinion or otherwise; and

(3) domestic relationships about which such expert testimony should be admissible include relationships between spouses, former spouses, cohabitants, former cohabitants, partners, or former partners, and between persons who are in, or have been in, a dating, courtship, or intimate relationship.

CENTER FOR RARE DISEASE RESEARCH ACT

The text of the bill (S. 1203) to establish a Center for Rare Disease Research in the National Institutes of Health, and for other purposes, as passed by the Senate on October 7, 1994, is as follows:

S. 1203

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Office for Rare Disease Research Act of 1994".

SEC. 2. ESTABLISHMENT OF OFFICE FOR RARE DISEASE RESEARCH.

Part A of title IV of the Public Health Service Act (42 U.S.C. 281 et seq.) is amended by adding at the end thereof the following new section:

"SEC. 404F. OFFICE FOR RARE DISEASE RESEARCH.

"(a) ESTABLISHMENT.—There is established within the Office of the Director of the National Institutes of Health an office to be known as the Office for Rare Disease Research (in this section referred to as the 'Office'). The Office shall be headed by a director, who shall be appointed by the Director of the National Institutes of Health.

"(b) PURPOSE.—The purpose of the Office is to promote and coordinate the conduct of research on rare diseases through a strategic research plan and to establish and manage a rare disease research clinical database.

"(c) ADVISORY COUNCIL.—The Secretary shall establish an advisory council for the purpose of providing advice to the director of the Office concerning carrying out the strategic research plan and other duties under this section. Section 222 shall apply to such council to the same extent and in the same manner as such section applies to committees or councils established under such section.

"(d) DUTIES.—In carrying out subsection (b), the director of the Office shall—

"(1) develop a comprehensive plan for the conduct and support of research on rare diseases;

"(2) coordinate and disseminate information among the institutes and the public on rare diseases;

"(3) support research training and encourage the participation of a diversity of individuals in the conduct of rare disease research;

"(4) identify projects or research on rare diseases that should be conducted or supported by the National Institutes of Health;

"(5) develop and maintain a central database on current government sponsored clinical research projects for rare diseases;

"(6) determine the need for registries of research subjects and epidemiological studies of rare disease populations; and

"(7) prepare biennial reports on the activities carried out or to be carried out by the Office and submit such reports to the Secretary and the Congress.".

INDIAN SELF-DETERMINATION CONTRACT REFORM ACT

The text of the bill (S. 2036) to specify the terms of the contracts entered into by the United States and Indian tribal organizations under the Indian Self-Determination and Education Assistance Act, and for other purposes, as passed by the Senate on October 6, 1994, is as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Indian Self-Determination Contract Reform Act of 1994".

SEC. 2. GENERAL AMENDMENTS.

The Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.) is amended—

(1) in section 4—

(A) in subsection (g), by striking "indirect costs rate" and inserting "indirect cost rate";

(B) by striking "and" at the end of subsection (k);

(C) by striking the period at the end of subsection (l) and inserting "; and"; and

(D) by adding at the end the following new subsection:

"(m) 'construction contract' means a fixed-price or cost-reimbursement self-determination contract for a construction project, except that such term does not include any contract—

"(1) that is limited to providing planning services and construction management services (or a combination of such services);

"(2) for the Housing Improvement Program or roads maintenance program of the Bureau of Indian Affairs administered by the Secretary of the Interior; or

"(3) for the health facility maintenance and improvement program administered by the Secretary of Health and Human Services.";

(2) by striking subsection (f) of section 5 and inserting the following new subsection:

"(f)(1) For each fiscal year during which an Indian tribal organization receives or expends funds pursuant to a contract entered into, or grant made, under this Act, the tribal organization that requested such contract or grant shall submit to the appropriate Secretary a single-agency audit report required by chapter 75 of title 31, United States Code.

"(2) In addition to submitting a single-agency audit report pursuant to paragraph (1), a tribal organization referred to in such paragraph shall submit such additional information concerning the conduct of the program, function, service, or activity carried out pursuant to the contract or grant that is the subject of the report as the tribal organization may negotiate with the Secretary.

"(3) Any disagreement over reporting requirements shall be subject to the declination criteria and procedures set forth in section 102.";

(3) in section 7(a), by striking "of subcontractors" and inserting in lieu thereof "or subcontractors (excluding tribes and tribal organizations)";

(4) at the end of section 7, add the following new subsection:

"(c) Notwithstanding subsections (a) and (b), with respect to any self-determination contract, or portion of a self-determination contract, that is intended to benefit one tribe, the tribal employment or contract preference laws adopted by such tribe shall govern with respect to the administration of the contract or portion of the contract.";

(5) at the end of section 102(a)(1), add the following new flush sentence:

"The programs, functions, services, or activities that are contracted under this paragraph shall include administrative functions of the Department of the Interior and the Department of Health and Human Services (whichever is applicable) that support the delivery of services to Indians, including those administrative activities supportive of, but not included as part of, the service delivery programs described in this paragraph that are otherwise contractable. The administrative functions referred to in the preceding sentence shall be contractable without regard to the organizational level within the department that carries out such functions.";

(6) in section 102(a)—

(A) in paragraph (2)—

(i) in the first sentence, by inserting ", or a proposal to amend or renew a self-determination contract," before "to the Secretary for review";

(ii) in the second sentence—

(I) by striking "The" and inserting "Subject to the provisions of paragraph (4), the";

(II) by inserting "and award the contract" after "approve the proposal";

(III) by striking ", within sixty days of receipt of the proposal,"; and

(IV) by striking "a specific finding is made that" and inserting "the Secretary provides written notification to the applicant that contains a specific finding supported by clearly demonstrated evidence or a controlling legal authority that";

(iii) in subparagraph (B), by striking "or" after the semicolon;

(iv) in subparagraph (C), by striking the period at the end and inserting a semicolon;

(v) by adding at the end the following new subparagraphs:

"(D) the amount of funds proposed under the contract is in excess of the applicable funding level for the contract, as determined under section 106(a); or

"(E) the program, function, service, or activity (or portion thereof) that is the subject of the proposal is beyond the scope of programs, functions, services, or activities covered under paragraph (1) because the proposal includes activities that cannot lawfully be carried out by the contractor."; and

(vi) by adding at the end of the paragraph the following new flush material:

"Notwithstanding any other provision of law, the Secretary may extend or otherwise alter the 90-day period specified in the second sentence of this subsection, if before the expiration of such period, the Secretary obtains the voluntary and express written consent of the tribe or tribal organization to extend or otherwise alter such period. The contractor shall include in the proposal of the contractor the standards under which the tribal organization will operate the contracted program, service, function, or activity, including in the area of construction, provisions regarding the use of licensed and qualified architects, applicable health and safety standards, adherence to applicable Federal, State, local, or tribal building codes and engineering standards. The standards referred to in the preceding sentence shall ensure structural integrity, accountability of funds, adequate competition for subcontracting under tribal or other applicable law the commencement, performance, and completion of the contract, adherence to project plans and specifications (including any applicable Federal construction guidelines and manuals), the use of proper materials or workmanship, necessary inspection and testing, and changes, modifications, stop work, and termination of the work when warranted."; and

(B) by adding at the end the following new paragraph:

"(4) The Secretary shall approve any severable portion of a contract proposal that does not support a declination finding described in paragraph (2). If the Secretary determines under such paragraph that a contract proposal—

"(A) proposes in part to plan, conduct, or administer a program, function, service, or activity that is beyond the scope of programs covered under paragraph (1), or

"(B) proposes a level of funding that is in excess of the applicable level determined under section 106(a),

subject to any alteration in the scope of the proposal that the Secretary and the tribal organization agree to, the Secretary shall, as appropriate, approve such portion of the program, function, service, or activity as is authorized under paragraph (1) or approve a level of funding authorized under section 106(a). If a tribal organization elects to carry out a severable portion of a contract proposal pursuant to this paragraph, subsection (b) shall only apply to the portion of the contract that is declined by the Secretary pursuant to this subsection.";

(7) in section 102(b)(3)—

(A) by inserting after "record" the following: "with the right to engage in full discovery relevant to any issue raised in the matter"; and

(B) by inserting before the period the following: ", except that the tribe or tribal organization may, in lieu of filing such appeal, exercise the option to initiate an action in a Federal district court and proceed directly to such court pursuant to section 110(a)";

(8) in section 102(d), by striking "as provided in section 2671 of title 28)" and inserting "as provided in section 2671 of title 28, United States Code, and including an individual who provides health care services pursuant to a personal services contract with a tribal organization for the provision of services in any facility owned, operated, or constructed under the jurisdiction of the Indian Health Service)";

(9) by adding at the end of section 102 the following new subsection:

"(e)(1) With respect to any hearing or appeal conducted pursuant to subsection (b)(3), the Secretary shall have the burden of proof to establish by clearly demonstrated evidence the validity of the grounds for declining the contract proposal (or portion thereof).

"(2) Notwithstanding any other provision of law, a decision by an official of the Department of the Interior or the Department of Health and Human Services, as appropriate (referred to in this paragraph as the 'Department') that constitutes final agency action and that relates to an appeal within the Department that is conducted under subsection (b)(3) shall be made either—

"(A) by an official of the Department who holds a position at a higher organizational level within the Department than the level of the departmental agency (such as the Indian Health Service or the Bureau of Indian Affairs) in which the decision that is the subject of the appeal was made; or

"(B) by an administrative judge.";

(10) by striking subsection (a) of section 105 and inserting the following new subsection:

"(a)(1) Notwithstanding any other provision of law, subject to paragraph (3), the contracts and cooperative agreements entered into with, and grants made to, tribal organizations pursuant to sections 102 and 103 shall not be subject to Federal contracting, discretionary grant or cooperative agreement laws (including any regulations), except to the extent that such laws expressly apply to Indian tribes.

"(2) Program standards applicable to a nonconstruction self-determination contract shall be set forth in the contract proposal and the final contract of the tribe or tribal organization.

"(3)(A) With respect to a construction contract (or a subcontract of such a construction contract), the provisions of the Office of Federal Procurement Policy Act (41 U.S.C. 401 et seq.) and the regulations relating to acquisitions promulgated under such Act shall apply only to the extent that the application of such provision to the construction contract (or subcontract) is—

"(i) necessary to ensure that the contract may be carried out in a satisfactory manner;

"(ii) directly related to the construction activity; and

"(iii) not inconsistent with this Act.

"(B) A list of the Federal requirements that meet the requirements of clauses (i) through (iii) of subparagraph (A) shall be included in an attachment to the contract pursuant to negotiations between the Secretary and the tribal organization.

"(C)(i) Except as provided in subparagraph (B), no Federal law listed in clause (ii) or any other provision of Federal law (including an Executive order) relating to acquisition by the Federal Government shall apply to a construction contract that a tribe or tribal organization enters into under this Act, unless expressly provided in such law.

"(ii) The laws listed in this paragraph are as follows:

"(I) The Federal Property and Administrative Services Act of 1949 (40 U.S.C. 471 et seq.).

"(II) Section 3709 of the Revised Statutes.

"(III) Section 9(c) of the Act of Aug. 2, 1946 (60 Stat. 809, chapter 744).

"(IV) Title III of the Federal Property and Administrative Services Act of 1949 (63 Stat. 393 et seq., chapter 288).

"(V) Section 13 of the Act of Oct. 3, 1944 (58 Stat. 770; chapter 479).

"(VI) Chapters 21, 25, 27, 29, and 31 of title 44, United States Code.

"(VII) Section 2 of the Act of June 13, 1934 (48 Stat 948, chapter 483).

"(VIII) Sections 1 through 12 of the Act of June 30, 1936 (49 Stat. 2036 et seq. chapter 881).

"(IX) The Service Control Act of 1965 (41 U.S.C. 351 et seq.).

"(X) The Small Business Act (15 U.S.C. 631 et seq.).

"(XI) Executive Order Nos. 12138, 11246, 11701 and 11758.";

(11) by striking subsection (e) and inserting the following new subsection:

"(e) If an Indian tribe, or a tribal organization authorized by a tribe, requests retrocession of the appropriate Secretary for any contract or portion of a contract entered into pursuant to this Act, unless the tribe or tribal organization rescinds the request for retrocession, such retrocession shall become effective on—

"(1) the earlier of—

"(A) the date that is 1 year after the date the Indian tribe or tribal organization submits such request; or

"(B) the date on which the contract expires; or

"(2) such date as may be mutually agreed by the Secretary and the Indian tribe.";

(12) by striking paragraph (2) of section 105(f) and inserting the following new paragraph:

"(2) donate to an Indian tribe or tribal organization title to any personal or real property found to be excess to the needs of the Bureau of Indian Affairs, the Indian Health Service, or the General Services Administration, except that—

"(A) subject to the provisions of subparagraph (B), title to property and equipment furnished by the Federal Government for use in the performance of the contract or purchased with funds under any self-determination contract or grant agreement shall, unless otherwise requested by the tribe or tribal organization, vest in the appropriate tribe or tribal organization;

"(B) if property described in subparagraph (A) has a value in excess of $5,000 at the time of the retrocession, rescission, or termination of the self-determination contract or grant agreement, at the option of the Secretary, upon the retrocession, rescission, or termination, title to such property and equipment shall revert to the Department of the Interior or the Department of Health and Human Services, as appropriate; and

"(C) all property referred to in subparagraph (A) shall remain eligible for replacement on the same basis as if title to such property were vested in the United States; and";

(13) by adding at the end of section 105 the following new subsections:

"(i)(1) If a self-determination contract requires the Secretary to divide the administration of a program that has previously been administered for the benefit of a greater number of tribes than are represented by the tribal organization that is a party to the contract, the Secretary shall take such action as may be necessary to ensure that services are provided to the tribes not served by a self-determination contract, including program redesign in consultation with the tribal organization and all affected tribes.

"(2) Nothing in this title shall be construed to limit or reduce in any way the funding for any program, project, or activity serving a tribe under this or other applicable Federal law. Any tribe or tribal organization that alleges that a self-determination contract is in violation of this section may apply the provisions of section 110.

"(j) Upon providing notice to the Secretary, a tribal organization that carries out a nonconstruction self-determination contract may propose a redesign of a program, activity, function, or service carried out by the tribal organization under the contract, including any nonstatutory program standard, in such manner as to best meet the local geographic, demographic, economic, cultural, health, and institutional needs of the Indian people and tribes served under the contract. The Secretary shall evaluate any proposal to redesign any program, activity, function, or service provided under the contract. With respect to declining to approve a redesigned program, activity, function, or service under this subsection, the Secretary shall apply the criteria and procedures set forth in section 102.

"(k) For purposes of section 201(a) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 481(a)) (relating to Federal sources of supply, including lodging providers, airlines and other transportation providers), a tribal organization carrying out a contract, grant, or cooperative agreement under this Act shall be deemed an executive agency when carrying out such contract, grant, or agreement and the employees of the tribal organization shall be eligible to have access to such sources of supply on the same basis as employees of an executive agency have such access.

"(l)(1) Upon the request of an Indian tribe or tribal organization, the Secretary shall enter into a lease with the Indian tribe or tribal organization that holds title to, a leasehold interest in, or a trust interest in, a facility used by the Indian tribe or tribal organization for the administration and delivery of services under this Act.

"(2) The Secretary shall compensate each Indian tribe or tribal organization that enters into a lease under paragraph (1) for the use of the facility leased for the purposes specified in such paragraph. Such compensation may include rent, depreciation based on the useful life of the facility, principal and interest paid or accrued, operation and maintenance expenses, and such other reasonable expenses that the Secretary determines, by regulation, to be allowable.

"(m)(1) Each construction contract requested, approved, or awarded under this Act shall be subject to—

"(A) except as otherwise provided in this Act, the provisions of this Act, other than sections 102(a)(2), 106(m), 108 and 109; and

"(B) section 314 of the Department of the Interior and Related Agencies Appropriations Act, 1991 (104 Stat. 1959).

"(2) In providing technical assistance to tribes and tribal organizations in the development of construction contract proposals, the Secretary shall provide, not later than 30 days after receiving a request from a tribe or tribal organization, all information available to the Secretary regarding the construction project, including construction drawings, maps, engineering reports, design reports, plans of requirements, cost estimates, environmental assessments or environmental impact reports, and archaeological reports.

"(3) Prior to finalizing a construction contract proposal pursuant to section 102(a), and upon request of the tribe or tribal organization that submits the proposal, the Secretary shall provide for a precontract negotiation phase in the development of a contract proposal. Such phase shall include, at a minimum, the following elements:

"(A) The provision of technical assistance pursuant to section 103 and paragraph (2).

"(B) A joint scoping session between the Secretary and the tribe or tribal organization to review all plans, specifications, engineering reports, cost estimates, and other information available to the parties, for the purpose of identifying all areas of agreement and disagreement.

"(C) An opportunity for the Secretary to revise the plans, designs, or cost estimates of the Secretary in response to concerns raised, or information provided by, the tribe or tribal organization.

"(D) A negotiation session during which the Secretary and the tribe or tribal organization shall seek to develop a mutually agreeable contract proposal.

"(E) Upon the request of the tribe or tribal organization, the use of an alternative dispute resolution mechanism to seek resolution of all remaining areas of disagreement pursuant to the dispute resolution provisions under subchapter IV of chapter 5 of title 5, United States Code.

"(F) The submission to the Secretary by the tribe or tribal organization of a final contract proposal pursuant to section 102(a).

"(4)(A) Subject to subparagraph (B), in funding a fixed-price construction contract pursuant to section 106(a), the Secretary shall provide for the following:

"(i) The reasonable costs to the tribe or tribal organization for general administration incurred in connection with the project that is the subject of the contract.

"(ii) The ability of the contractor that carries out the construction contract to make a reasonable profit, taking into consideration the risks associated with carrying out the contract and other relevant considerations.

"(B) In establishing a contract budget for a construction project, the Secretary shall not be required to separately identify the components described in clauses (i) and (ii) of subparagraph (A).

"(C) The total amount awarded under a construction contract shall reflect an overall fair and reasonable price to the parties, including the following costs:

"(i) The reasonable costs to the tribal organization of performing the contract, taking into consideration the terms of the contract and the requirements of this Act and any other applicable law.

"(ii) The costs of preparing the contract proposal and supporting cost data.

"(iii) The costs associated with auditing the general and administrative costs of the tribal organization associated with the management of the construction contract.

"(iv) In the case of a fixed-price contract, a fair profit determined by taking into consideration the relevant risks and local market conditions.

"(v) If the Secretary and the tribe or tribal organization are unable to develop a mutually agreeable construction contract proposal pursuant to the procedures set forth in this subsection, the tribe or tribal organization may submit a final contract proposal to the Secretary. Not later than 30 days after receiving such final contract proposal, the Secretary shall approve the contract proposal and award the contract, unless, during such period the Secretary declines the proposal pursuant to sections 102(a)(2) and 102(b) of section 102 (including providing opportunity for an appeal pursuant to section 102(b)).

"(n) Notwithstanding any other provision of law, the rental rates for housing provided to an employee by the Federal Government in Alaska pursuant to a self-determination contract shall be determined on the basis of—

"(1) the reasonable value of the quarters and facilities (as such terms are defined under section 5911 of title 5, United States Code) to such employee, and

"(2) the circumstances under which such quarters and facilities are provided to such employee,

as based on the cost of comparable private rental housing in the nearest established community with a year-round population of 1,500 or more individuals.";

(14) in section 106(a)—

(A) in paragraph (1), by inserting before the period at the end the following: ", without regard to any organizational level within

the Department of the Interior or the Department of Health and Human Services, as appropriate, at which the program, function, service, or activity or portion thereof, including supportive administrative functions that are otherwise contractable, is operated";

(B) in paragraph (2), by inserting after "consist of" the following: "an amount for"; and

(C) by striking paragraph (3) and inserting the following new paragraphs:

"(3)(A) The contract support costs that are eligible costs for the purposes of receiving funding under this Act shall include the costs of reimbursing each tribal contractor for reasonable and allowable costs of—

"(i) direct program expenses for the operation of the Federal program that is the subject of the contract, and

"(ii) any additional administrative or other expense related to the overhead incurred by the tribal contractor in connection with the operation of the Federal program, function, service, or activity pursuant to the contract,

except that such funding shall not duplicate any funding provided under section 106(a)(1).

"(B) On an annual basis, during such period as a tribe or tribal organization operates a Federal program, function, service, or activity pursuant to a contract entered into under this Act, the tribe or tribal organization shall have the option to negotiate with the Secretary the amount of funds that the tribe or tribal organization is entitled to receive under such contract pursuant to this paragraph.

"(4) For each fiscal year during which a self-determination contract is in effect, any savings attributable to the operation of a Federal program, function, service, or activity under a self-determination contract by a tribe or tribal organization (including a cost reimbursement construction contract) shall—

"(A) be used to provide additional services or benefits under the contract; or

"(B) be expended by the tribe or tribal organization in the succeeding fiscal year, as provided in section 8.

"(5) Subject to paragraph (6), during the initial year that a self-determination contract is in effect, the amount required to be paid under paragraph (2) shall include start-up costs consisting of the reasonable costs that have been incurred or will be incurred on a one-time basis pursuant to the contract necessary—

"(A) to plan, prepare for, and assume operation of the program, function, service, or activity that is the subject of the contract; and

"(B) to ensure compliance with the terms of the contract and prudent management.

"(6) Costs incurred before the initial year that a self-determination contract is in effect may not be included in the amount required to be paid under paragraph (2) if the Secretary does not receive a written notification of the nature and extent of the costs prior to the date on which such costs are incurred.";

(15) in section 106(c)—

(A) by striking "March 15" and inserting "May 15";

(B) in paragraphs (1) and (2), by striking "indirect costs" each place it appears and inserting "contract support costs";

(C) in paragraph (4), by striking "and" at the end;

(D) in paragraph (5), by striking the period at the end and inserting "; and"; and

(E) by adding at the end the following new paragraph:

"(6) an accounting of any deficiency of funds needed to maintain the preexisting level of services to any tribes affected by contracting activities under this Act, and a statement of the amount of funds needed for transitional purposes to enable contractors to convert from a Federal fiscal year accounting cycle to a different accounting cycle, as authorized by section 105(d).";

(16) in section 106(f), by inserting immediately after the second sentence the following new sentence: "For the purpose of determining the 365-day period specified in this paragraph, an audit report shall be deemed to have been received on the date of actual receipt by the Secretary, if, within 60 days after receiving the report, the Secretary does not give notice of a determination by the Secretary to reject the single-agency report as insufficient due to noncompliance with chapter 75 of title 31, United States Code, or noncompliance with any other applicable law.";

(17) by striking subsection (g) of section 106 and inserting the following new subsection:

"(g) Upon the approval of a self-determination contract, the Secretary shall add to the contract the full amount of funds to which the contractor is entitled under section 106(a), subject to adjustments for each subsequent year that such tribe or tribal organization administers a Federal program, function, service, or activity under such contract.";

(18) by striking subsection (i) of section 106 and inserting the following new subsection:

"(i) On an annual basis, the Secretary shall consult with, and solicit the participation of, Indian tribes and tribal organizations in the development of the budget for the Indian Health Service and the Bureau of Indian Affairs (including participation of Indian tribes and tribal organizations in formulating annual budget requests that the Secretary submits to the President for submission to Congress pursuant to section 1105 of title 31, United States Code)."; and

(19) by adding at the end of section 106 the following new subsections:

"(j) Notwithstanding any other provision of law, a tribal organization may use funds provided under a self-determination contract to meet matching or cost participation requirements under other Federal and non-Federal programs.

"(k) Without intending any limitation, a tribal organization may, without the approval of the Secretary, expend funds provided under a self-determination contract for the following purposes, to the extent that the expenditure of the funds is supportive of a contracted program:

"(1) Depreciation and use allowances not otherwise specifically prohibited by law, including the depreciation of facilities owned by the tribe or tribal organization.

"(2) Publication and printing costs.

"(3) Building, realty, and facilities costs, including rental costs or mortgage expenses.

"(4) Automated data processing and similar equipment or services.

"(5) Costs for capital assets and repairs.

"(6) Management studies.

"(7) Professional services, other than services provided in connection with judicial proceedings by or against the United States.

"(8) Insurance and indemnification, including insurance covering the risk of loss of or damage to property used in connection with the contract without regard to the ownership of such property.

"(9) Costs incurred to raise funds or contributions from non-Federal sources for the purpose of furthering the goals and objectives of the self-determination contract.

"(10) Interest expenses paid on capital expenditures such as buildings, building renovation, or acquisition or fabrication of capital equipment, and interest expenses on loans necessitated due to delays by the Secretary in providing funds under a contract.

"(11) Expenses of a governing body of a tribal organization that are attributable to the management or operation of programs under this Act.

"(12) Costs associated with the management of pension funds, self-insurance funds, and other funds of the tribal organization that provide for participation by the Federal Government.

"(l) The Secretary may only suspend, withhold, or delay the payment of funds for a period of 30 days beginning on the date the Secretary makes a determination under this paragraph to a tribal organization under a self-determination contract, if the Secretary determines that the tribal organization has failed to substantially carry out the contract without good cause. In any such case, the Secretary shall provide the tribal organization with reasonable advance written notice, technical assistance (subject to available resources) to assist the tribal organization, a hearing on the record not later than 10 days after the date of such determination or such later date as the tribal organization shall approve, and promptly release any funds withheld upon subsequent compliance.

"(2) With respect to any hearing or appeal conducted pursuant to this subsection, the Secretary shall have the burden of proof to establish by clearly demonstrated evidence the validity of the grounds for suspending, withholding, or delaying payment of funds.

"(m) The program income earned by a tribal organization in the course of carrying out a self-determination contract—

"(1) shall be used by the tribal organization to further the general purposes of the contract; and

"(2) shall not be a basis for reducing the amount of funds otherwise obligated to the contract.

"(n) To the extent that programs, functions, services, or activities carried out by tribal organizations pursuant to contracts entered into under this Act reduce the administrative or other responsibilities of the Secretary with respect to the operation of Indian programs and result in savings that have not otherwise been included in the amount of contract funds determined under subsection (a), the Secretary shall make such savings available for the provision of additional services to program beneficiaries, either directly or through contractors, in a manner equitable to both direct and contracted programs.

"(o) Notwithstanding any other provision of law (including any regulation), a tribal organization that carries out a self-determination contract may, with respect to allocations within the approved budget of the contract, rebudget to meet contract requirements, if such rebudgeting would not have an adverse effect on the performance of the contract.".

SEC. 3. CONTRACT SPECIFICATIONS.

The Indian Self-Determination Education Assistance Act (25 U.S.C. 450 et seq.) is amended by inserting after section 107 the following new section:

"SEC. 108. CONTRACT OR GRANT SPECIFICATIONS.

"(a) Each self-determination contract entered into under this Act shall—

"(1) contain, or incorporate by reference, the provisions of the model agreement described in subsection (c) (with modifications

where indicated and the blanks appropriately filled in), and

"(2) contain such other provisions as are agreed to by the parties.

"(b) Notwithstanding any other provision of law, the Secretary may make payments pursuant to section 1(b)(6) of such model agreement. As provided in section 1(b)(7) of the model agreement, the records of the tribal government or tribal organization specified in such section shall not be considered Federal records for purposes of chapter 5 of title 5, United States Code.

"(c) The model agreement referred to in subsection (a)(1) reads as follows:

"'SECTION 1. AGREEMENT BETWEEN THE SECRETARY AND THE ___ TRIBAL GOVERNMENT.

"'(a) AUTHORITY AND PURPOSE.—

"'(1) AUTHORITY.—This agreement, denoted a Self-Determination Contract (referred to in this agreement as the "Contract"), is entered into by the Secretary of the Interior or the Secretary of Health and Human Services (referred to in this agreement as the "Secretary"), for and on behalf of the United States pursuant to title I of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.) and by the authority of the ___ tribal government or tribal organization (referred to in this agreement as the "Contractor"). The provisions of title I of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.) are incorporated in this agreement.

"'(2) PURPOSE.—Each provision of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.) and each provision of this Contract shall be liberally construed for the benefit of the Contractor to transfer the funding and the following related functions, services, activities, and programs (or portions thereof), that are otherwise contractable under section 102(a) of such Act, including all related administrative functions, from the Federal Government to the Contractor: (List functions, services, activities, and programs).

"'(b) TERMS, PROVISIONS, AND CONDITIONS.—

"'(1) TERM.—Pursuant to section 105(c)(1) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450j(c)(1)), the term of this contract shall be ___ years. Pursuant to section 105(d)(1) of such Act (25 U.S.C. 450j(d)), upon the election by the Contractor, the period of this Contract shall be determined on the basis of a calendar year, unless the Secretary and the Contractor agree on a different period in the annual funding agreement incorporated by reference in subsection (f)(2).

"'(2) EFFECTIVE DATE.—This Contract shall become effective upon the date of the approval and execution by the Contractor and the Secretary, unless the Contractor and the Secretary agree on an effective date other than the date specified in this paragraph.

"'(3) PROGRAM STANDARD.—The Contractor agrees to administer the program, services, functions and activities (or portions thereof) listed in subsection (a)(2) of the Contract in conformity with the following standards: (list standards).

"'(4) FUNDING AMOUNT.—Subject to the availability of appropriations, the Secretary shall make available to the Contractor the total amount specified in the annual funding agreement incorporated by reference in subsection (f)(2). Such amount shall not be less than the applicable amount determined pursuant to section 106(a) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450j-1).

"'(5) LIMITATION OF COSTS.—The Contractor shall not be obligated to continue performance that requires an expenditure of funds in excess of the amount of funds awarded under this Contract. If, at any time, the Contractor has reason to believe that the total amount required for performance of this Contract or a specific activity conducted under this Contract would be greater than the amount of funds awarded under this Contract, the Contractor shall provide reasonable notice to the appropriate Secretary. If the appropriate Secretary does not take such action as may be necessary to increase the amount of funds awarded under this Contract, the Contractor may suspend performance of the Contract until such time as additional funds are awarded.

"'(6) PAYMENT.—

"'(A) IN GENERAL.—Payments to the Contractor under this Contract shall—

"'(i) be made as expeditiously as practicable; and

"'(ii) include financial arrangements to cover funding during periods covered by joint resolutions adopted by Congress making continuing appropriations, to the extent permitted by such resolutions.

"'(B) QUARTERLY, SEMIANNUAL, LUMP-SUM, AND OTHER METHODS OF PAYMENT.—

"'(i) IN GENERAL.—Pursuant to section 108(b) of the Indian Self-Determination and Education Assistance Act, and notwithstanding any other provision of law, for each fiscal year covered by this Contract, the Secretary shall make available to the Contractor the funds specified for the fiscal year under the annual funding agreement incorporated by reference pursuant to subsection (f)(2) by paying to the Contractor, on a quarterly basis, one-quarter of the total amount provided for in the annual funding agreement for that fiscal year, in a lump-sum payment or as semiannual payments, or any other method of payment authorized by law, in accordance with such method as may be requested by the Contractor and specified in the annual funding agreement.

"'(ii) METHOD OF QUARTERLY PAYMENT.—If quarterly payments are specified in the annual funding agreement incorporated by reference pursuant to subsection (f)(2), each quarterly payment made pursuant to clause (i) shall be made on the first day of each quarter of the fiscal year, except that in any case in which the contract year coincides with the Federal fiscal year, payment for the first quarter shall be made not later than the date that is 10 calendar days after the date on which the Office of Management and Budget apportions the appropriations for the fiscal year for the programs, services, functions, and activities subject to this Contract.

"'(iii) APPLICABILITY.—Chapter 39 of title 31, United States Code, shall apply to the payment of funds due under this Contract and the annual funding agreement referred to in clause (i).

"'(7) RECORDS AND MONITORING.—

"'(A) IN GENERAL.—Except for previously provided copies of tribal records that the Secretary demonstrates are clearly required to be maintained as part of the recordkeeping system of the Department of the Interior or the Department of Health and Human Services (or both), records of the Contractor shall not be considered Federal records for purposes of chapter 5 of title 5, United States Code.

"'(B) RECORDKEEPING SYSTEM.—The Contractor shall maintain a recordkeeping system and, upon reasonable advance request, provide reasonable access to such records to the Secretary.

"'(C) RESPONSIBILITIES OF CONTRACTOR.—The Contractor shall be responsible for managing the day-to-day operations conducted under this Contract and for monitoring activities conducted under this Contract to ensure compliance with the contract and applicable Federal requirements. With respect to the monitoring activities of the Secretary, the routine monitoring visits shall be limited to not more than one performance monitoring visit for this Contract by the head of each operating division, departmental bureau, or departmental agency, or duly authorized representative of such head unless—

"'(i) the Contractor agrees to one or more additional visits; or

"'(ii) the appropriate official determines that there is reasonable cause to believe that grounds for reassumption of the Contract, suspension of contract payments, or other serious contract performance deficiency may exist.

No additional visit referred to in clause (ii) shall be made until such time as reasonable advance notice that includes a description of the nature of the problem that requires the additional visit has been given to the Contractor.

"'(8) PROPERTY.—

"'(A) IN GENERAL.—As provided in section 105(f) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450j(f)), at the request of the Contractor, the Secretary may make available, or transfer to the Contractor, all reasonably divisible real property, facilities, equipment, and personal property that the Secretary has used to provide or administer the programs, services, functions, and activities covered by this Contract. A mutually agreed upon list specifying the property, facilities, and equipment so furnished shall also be prepared by the Secretary, with the concurrence of the Contractor, and periodically revised by the Secretary, with the concurrence of the Contractor.

"'(B) RECORDS.—The Contractor shall maintain a record of all property referred to in subparagraph (A) or other property acquired by the Contractor under section 105(f)(2)(A) of such Act for purposes of replacement.

"'(C) JOINT USE AGREEMENTS.—Upon the request of the Contractor, the Secretary and the Contractor shall enter into a separate joint use agreement to address the shared use by the parties of real or personal property that is not reasonably divisible.

"'(D) ACQUISITION OF PROPERTY.—The Contractor is granted the authority to acquire such excess property as the Contractor may determine to be appropriate in the judgment of the Contractor to support the programs, services, functions, and activities operated pursuant to this Contract.

"'(E) CONFISCATED OR EXCESS PROPERTY.—The Secretary shall assist the Contractor in obtaining such confiscated or excess property as may become available to tribes, tribal organizations, or local governments.

"'(F) SCREENER IDENTIFICATION CARD.—A screener identification card (General Services Administration form numbered 2946) shall be issued to the Contractor not later than the effective date of this Contract. The designated official shall, upon request, assist the Contractor in securing the use of the card.

"'(G) CAPITAL EQUIPMENT.—The Contractor shall determine the capital equipment, leases, rentals, property, or services the Contractor requires to perform the obligations of the Contractor under this subsection, and shall acquire and maintain records of such

capital equipment, property rentals, leases, property, or services through applicable procurement procedures of the Contractor.

"'(9) AVAILABILITY OF FUNDS.—Notwithstanding any other provision of law, any funds provided under this contract—

"'(A) shall remain available until expended; and

"'(B) with respect to such funds, no further—

"'(i) approval by the Secretary, or

"'(ii) justifying documentation from the Contractor, shall be required prior to the expenditure of such funds.

"'(10) TRANSPORTATION.—Beginning on the effective date of this Contract, the Secretary shall authorize the Contractor to obtain interagency motor pool vehicles and related services for performance of any activities carried out under this Contract.

"'(11) FEDERAL PROGRAM GUIDELINES, MANUALS, OR POLICY DIRECTIVES.—Except as specifically provided in the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.) the Contractor is not required to abide by program guidelines, manuals, or policy directives of the Secretary, unless otherwise agreed to by the Contractor and the Secretary, or otherwise required by law.

"'(12) DISPUTES.—

"'(A) THIRD-PARTY MEDIATION DEFINED.—For the purposes of this Contract, the term "third-party mediation" means a form of mediation whereby the Secretary and the Contractor nominate a third party who is not employed by or significantly involved with the Secretary of the Interior, the Secretary of Health and Human Services, or the Contractor, to serve as a third-party mediator to mediate disputes under this Contract.

"'(B) ALTERNATIVE PROCEDURES.—In addition to, or as an alternative to, remedies and procedures prescribed by section 110 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450m-1), the parties to this Contract may jointly—

"'(i) submit disputes under this Contract to third-party mediation;

"'(ii) submit the dispute to the adjudicatory body of the Contractor, including the tribal court of the Contractor;

"'(iii) submit the dispute to mediation processes provided for under the laws, policies, or procedures of the Contractor; or

"'(iv) use the administrative dispute resolution processes authorized in subchapter IV of chapter 5 of title 5, United States Code.

"'(C) EFFECT OF DECISIONS.—The Secretary shall be bound by decisions made pursuant to the processes set forth in subparagraph (B), except that the Secretary shall not be bound by any decision that significantly conflicts with the interests of Indians or the United States.

"'(13) ADMINISTRATIVE PROCEDURES OF CONTRACTOR.—Pursuant to the Indian Civil Rights Act of 1968 (25 U.S.C. 1301 et seq.), the laws, policies, and procedures of the Contractor shall provide for administrative due process (or the equivalent of administrative due process) with respect to programs, services, functions, and activities that are provided by the Contractor pursuant to this Contract.

"'(14) SUCCESSOR ANNUAL FUNDING AGREEMENT.—

"'(A) IN GENERAL.—Negotiations for a successor annual funding agreement, provided for in subsection (f)(2), shall begin not later than 120 days prior to the conclusion of the preceding annual funding agreement. Except as provided in section 105(c)(2) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450j(c)(2)) the funding for each such successor annual funding agreement shall only be reduced pursuant to section 106(b) of such Act (25 U.S.C. 450j-1(b)).

"'(B) INFORMATION.—The Secretary shall prepare and supply relevant information, and promptly comply with any request by the Contractor for information that the Contractor reasonably needs to determine the amount of funds that may be available for a successor annual funding agreement, as provided for in subsection (f)(2) of this Contract.

"'(15) CONTRACT REQUIREMENTS; APPROVAL BY SECRETARY.—

"'(A) IN GENERAL.—Except as provided in subparagraph (B), for the term of the Contract, section 2103 of the Revised Statutes (25 U.S.C. 81) and section 16 of the Act of June 18, 1934 (48 Stat. 987, chapter 576; 25 U.S.C. 476), shall not apply to any contract entered into in connection with this Contract.

"'(B) REQUIREMENTS.—Each Contract entered into by the Contractor with a third party in connection with performing the obligations of the Contractor under this Contract shall—

"'(i) be in writing;

"'(ii) identify the interested parties, the authorities of such parties, and purposes of the Contract;

"'(iii) state the work to be performed under the Contract; and

"'(iv) state the process for making any claim, the payments to be made, and the terms of the Contract, which shall be fixed.

"'(c) OBLIGATION OF THE CONTRACTOR.—

"'(1) CONTRACT PERFORMANCE.—Except as provided in subsection (d)(2), the Contractor shall perform the programs, services, functions, and activities as provided in the annual funding agreement under subsection (f)(2) of this Contract.

"'(2) AMOUNT OF FUNDS.—The total amount of funds to be paid under this Contract pursuant to section 106(a) shall be determined in an annual funding agreement entered into between the Secretary and the Contractor, which shall be incorporated into this Contract.

"'(3) CONTRACTED PROGRAMS.—Subject to the availability of appropriated funds, the Contractor shall administer the programs, services, functions, and activities identified in this Contract and funded through the annual funding agreement under subsection (f)(2).

"'(4) TRUST SERVICES FOR INDIVIDUAL INDIANS.—

"'(A) IN GENERAL.—To the extent that the annual funding agreement provides funding for the delivery of trust services to individual Indians that have been provided by the Secretary, the Contractor shall maintain at least the same level of service as the Secretary provided for such individual Indians, subject to the availability of appropriated funds for such services.

"'(B) TRUST SERVICES TO INDIVIDUAL INDIANS.—For the purposes of this paragraph only, the term "trust services for individual Indians" means only those services that pertain to land or financial management connected to individually held allotments.

"'(5) FAIR AND UNIFORM SERVICES.—The Contractor shall provide services under this Contract in a fair and uniform manner and shall provide access to an administrative or judicial body empowered to adjudicate or otherwise resolve complaints, claims, and grievances brought by program beneficiaries against the Contractor arising out of the performance of the Contract.

"'(d) OBLIGATION OF THE UNITED STATES.—

"'(1) TRUST RESPONSIBILITY.—

"'(A) IN GENERAL.—The United States reaffirms the trust responsibility of the United States to the ____ Indian tribe(s) to protect and conserve the trust resources of the Indian tribe(s) and the trust resources of individual Indians.

"'(B) CONSTRUCTION OF CONTRACT.—Nothing in this Contract may be construed to terminate, waive, modify, or reduce the trust responsibility of the United States to the tribe(s) or individual Indians. The Secretary shall act in good faith in upholding such trust responsibility.

"'(C) GOOD FAITH.—To the extent that health programs are included in this Contract, and within available funds, the Secretary shall act in good faith in cooperating with the Contractor to achieve the goals set forth in the Indian Health Care Improvement Act (25 U.S.C. 1601 et seq.).

"'(2) PROGRAMS RETAINED.—As specified in the annual funding agreement, the United States hereby retains the programs, services, functions, and activities with respect to the tribe(s) that are not specifically assumed by the Contractor in the annual funding agreement under subsection (f)(2).

"'(e) OTHER PROVISIONS.—

"'(1) DESIGNATED OFFICIALS.—Not later than the effective date of this Contract, the United States shall provide to the Contractor, and the Contractor shall provide to the United States, a written designation of a senior official to serve as a representative for notices, proposed amendments to the Contract, and other purposes for this Contract.

"'(2) CONTRACT MODIFICATIONS OR AMENDMENT.—

"'(A) IN GENERAL.—Except as provided in subparagraph (B), no modification to this Contract shall take effect unless such modification is made in the form of a written amendment to the Contract, and the Contractor and the Secretary provide written consent for the modification.

"'(B) EXCEPTION.—The addition of supplemental funds for programs, functions, and activities (or portions thereof) already included in the annual funding agreement under subsection (f)(2), and the reduction of funds pursuant to section 106(b)(2), shall not be subject to subparagraph (A).

"'(3) OFFICIALS NOT TO BENEFIT.—No Member of Congress, or resident commissioner, shall be admitted to any share or part of any contract executed pursuant to this Contract, or to any benefit that may arise from such contract. This paragraph may not be construed to apply to any contract with a third party entered into under this Contract if such contract is made with a corporation for the general benefit of the corporation.

"'(4) COVENANT AGAINST CONTINGENT FEES.—The parties warrant that no person or selling agency has been employed or retained to solicit or secure any contract executed pursuant to this Contract upon an agreement or understanding for a commission, percentage, brokerage, or contingent fee, excepting bona fide employees or bona fide established commercial or selling agencies maintained by the Contractor for the purpose of securing business.

"'(f) ATTACHMENTS.—

"'(1) APPROVAL OF CONTRACT.—Unless previously furnished to the Secretary, the resolution of the ____ Indian tribe(s) authorizing the contracting of the programs, services, functions, and activities identified in this Contract is attached to this Contract as attachment 1.

"'(2) ANNUAL FUNDING AGREEMENT.—

"'(A) IN GENERAL.—The annual funding agreement under this Contract shall only contain—

"'(i) terms that identify the programs, services, functions, and activities to be performed or administered, the general budget category assigned, the funds to be provided, and the time and method of payment; and

"'(ii) such other provisions, including a brief description of the programs, services, functions, and activities to be performed (including those supported by financial resources other than those provided by the Secretary), to which the parties agree.

"'(B) INCORPORATION BY REFERENCE.—The annual funding agreement is hereby incorporated in its entirety in this Contract and attached to this Contract as attachment 2.'".

SEC. 4. ADDITIONAL AMENDMENTS.

The Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.), as amended by sections 2 and 3, is further amended—

(1) in section 109—

(A) by inserting after "pursuant to such contract or grant agreement," the following "or in the management of trust fund, trust lands or interests in such lands pursuant to such contract or grant agreement,";

(B) by striking "action as prescribed by him" and all that follows through "in such cases, he" and inserting the following: "action as prescribed by the Secretary to remedy the contract deficiency, except that the appropriate Secretary may, upon written notice to a tribal organization, and the tribe served by the tribal organization, immediately rescind a contract or grant, in whole or in part, and resume control or operation of a program, activity, function, or service, if the Secretary finds that (i) there is an immediate threat of imminent harm to the safety of any person, or imminent substantial and irreparable harm to trust funds, trust lands, or interests in such lands, and (ii) such threat arises from the failure of the contractor to fulfill the requirements of the contract. In such cases, the Secretary";

(C) by inserting after "rescind such contract or grant agreement" the following: ", in whole or in part,";

(D) by striking the second period after "the tribal organization may approve"; and

(E) by inserting before the last sentence, the following new sentence: "In any hearing or appeal provided for under this section, the Secretary shall have the burden of proof to establish, by clearly demonstrated evidence, the validity of the grounds for rescinding, assuming, or reassuming the contract that is the subject of the hearing.";

(2) in section 110(a), by inserting immediately before the period at the end the following: "(including immediate injunctive relief to reverse a declination finding under section 102(a)(2) or to compel the Secretary to award and fund an approved self-determination contract)"; and

(3) in section 110(d), by inserting immediately before the period at the end the following: ", except that all administrative appeals relating to such contracts shall be heard by the Interior Board of Contract Appeals established pursuant to section 8 of such Act (41 U.S.C. 607)".

SEC. 5. REGULATIONS.

The Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.), as amended by sections 2 through 4, is further amended—

(1) by striking subsections (a) and (b) of section 107 and inserting the following new subsections:

"(a)(1) Except as may be specifically authorized in this subsection, or in any other provision of this Act, the Secretary of the Interior and the Secretary of Health and Human Services may not promulgate any regulation, nor impose any nonregulatory requirement, relating to self-determination contracts or the approval, award, or declination of such contracts, except that the Secretary of the Interior and the Secretary of Health and Human Services may promulgate regulations under this Act relating to chapter 171 of title 28, United States Code, commonly known as the 'Federal Tort Claims Act', the Contract Disputes Act of 1978 (41 U.S.C. 601 et seq.), declination and waiver procedures, appeal procedures, reassumption procedures, discretionary grant procedures for grants awarded under section 103, property donation procedures arising under section 105(f), internal agency procedures relating to the implementation of this Act, retrocession and tribal organization relinquishment procedures, contract proposal contents, conflicts of interest, construction, programmatic reports and data requirements, procurement standards, property management standards, and financial management standards.

"(2)(A) The regulations promulgated under this Act, including the regulations referred to in this subsection, shall be promulgated—

"(i) in conformance with sections 552 and 553 of title 5, United States Code and subsections (c), (d), and (e) of this section; and

"(ii) as a single set of regulations in title 25 of the Code of Federal Regulations.

"(B) The authority to promulgate regulations set forth in this Act shall expire if final regulations are not promulgated within 18 months after the date of enactment of the Indian Self-Determination Contract Reform Act of 1994.

"(b) The provisions of this Act shall supersede any conflicting provisions of law (including any conflicting regulations) in effect on the day before the date of enactment of the Indian Self-Determination Contract Reform Act of 1994, and the Secretary is authorized to repeal any regulation inconsistent with the provisions of this Act."; and

(2) by adding at the end of section 107, the following new subsections:

"(d)(1) In drafting and promulgating regulations as provided in subsection (a) (including drafting and promulgating any revised regulations), the Secretary of the Interior and the Secretary of Health and Human Services shall confer with, and allow for active participation by, representatives of Indian tribes, tribal organizations, and individual tribal members.

"(2)(A) In carrying out rulemaking processes under this Act, the Secretary of the Interior and the Secretary of Health and Human Services shall follow the guidance of—

"(i) subchapter III of chapter 5 of title 5, United States Code, commonly known as the 'Negotiated Rulemaking Act of 1990'; and

"(ii) the recommendations of the Administrative Conference of the United States numbered 82-4 and 85-5 entitled 'Procedures for Negotiating Proposed Regulations' under sections 305.82-4 and 305.85-5 of title 1, Code of Federal Regulations, and any successor recommendation or law (including any successor regulation).

"(B) The tribal participants in the negotiation process referred to in subparagraph (A) shall be nominated by and shall represent the groups described in this paragraph and shall include tribal representatives from all geographic regions.

"(C) The negotiations referred to in subparagraph (B) shall be conducted in a timely manner. Proposed regulations to implement the amendments made by the Indian Self-Determination Contract Reform Act of 1994 shall be published in the Federal Register by the Secretary of the Interior and the Secretary of Health and Human Services not later than 180 days after the date of enactment of such Act.

"(D) Notwithstanding any other provision of law (including any regulation), the Secretary of the Interior and the Secretary of Health and Human Services are authorized to jointly establish and fund such interagency committees or other interagency bodies, including advisory bodies comprised of tribal representatives, as may be necessary or appropriate to carry out the provisions of this Act.

"(E) If the Secretary determines that an extension of the deadlines under subsection (a)(2)(B) and subparagraph (C) of this paragraph is appropriate, the Secretary may submit proposed legislation to Congress for the extension of such deadlines.

"(e) The Secretary may, with respect to a contract entered into under this Act, make exceptions in the regulations promulgated to carry out this Act, or waive such regulations, if the Secretary finds that such exception or waiver is in the best interest of the Indians served by the contract or is consistent with the policies of this Act, and is not contrary to statutory law. In reviewing each request, the Secretary shall follow the timeline, findings, assistance, hearing, and appeal procedures set forth in section 102.".

SEC. 6. CONFORMING AMENDMENTS.

Section 105(h) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450j(h)) is amended by striking "and the rules and regulations adopted by the Secretaries of the Interior and Health and Human Services pursuant to section 107 of this Act".

QUINEBAUG AND SHETUCKET RIVERS VALLEY NATIONAL HERITAGE CORRIDOR ACT

The text of the bill (H.R. 1348) to establish the Quinebaug and Shetucket Rivers Valley National Heritage Corridor in the State of Connecticut, and for other purposes, as passed by the Senate on October 6, 1994, is as follows:

H.R. 1348

Resolved, That the bill from the House of Representatives (H.R. 1348) entitled "An Act to establish the Quinebaug and Shetucket Rivers Valley National Heritage Corridor in the State of Connecticut, and for other purposes", do pass with the following amendment:

Strike out all after the enacting clause and insert:

TITLE I—QUINEBAUG AND SHETUCKET RIVERS VALLEY NATIONAL HERITAGE CORRIDOR.

SEC. 101. SHORT TITLE.

This title may be cited as the "Quinebaug and Shetucket Rivers Valley National Heritage Corridor Act of 1994".

SEC. 102. FINDINGS.

The Congress finds that—

(1) the Quinebaug and Shetucket Rivers Valley in the State of Connecticut is one of the last unspoiled and undeveloped areas in the Northeastern United States and has remained largely intact, including important aboriginal archaeological sites, excellent water quality, beautiful

rural landscapes, architecturally significant mill structures and mill villages, and large acreages of parks and other permanent open space;

(2) the State of Connecticut ranks last among the 50 States in the amount of federally protected park and open space lands within its borders and lags far behind the other Northeastern States in the amount of land set-aside for public recreation;

(3) the beautiful rural landscapes, scenic vistas and excellent water quality of the Quinebaug and Shetucket Rivers contain significant undeveloped recreational opportunities for people throughout the United States;

(4) the Quinebaug and Shetucket Rivers Valley is within a two-hour drive of the major metropolitan areas of New York City, Hartford, Providence, Worcester, Springfield, and Boston. With the President's Commission on Americans Outdoors reporting that Americans are taking shorter "closer-to-home" vacations, the Quinebaug and Shetucket Rivers Valley represents important close-by recreational opportunities for significant population;

(5) the existing mill sites and other structures throughout the Quinebaug and Shetucket Rivers Valley were instrumental in the development of the industrial revolution;

(6) the Quinebaug and Shetucket Rivers Valley contains a vast number of discovered and unrecovered Native American and colonial archaeological sites significant to the history of North America and the United States;

(7) the Quinebaug and Shetucket Rivers Valley represents one of the last traditional upland farming and mill village communities in the Northeastern United States;

(8) the Quinebaug and Shetucket Rivers Valley played a nationally significant role in the cultural evolution of the prewar colonial period, leading the transformation from Puritan to Yankee, the "Great Awakening" religious revival and early political development leading up to and during the War of Independence; and

(9) many local, regional and State agencies businesses, and private citizens and the New England Governors' Conference have expressed an overwhelming desire to combine forces: to work cooperatively to preserve and enhance resources region-wide and better plan for the future.

SEC. 103. ESTABLISHMENT OF QUINEBAUG AND SHETUCKET RIVERS VALLEY NATIONAL HERITAGE CORRIDOR; PURPOSE.

(a) ESTABLISHMENT.—There is hereby established in the State of Connecticut the Quinebaug and Shetucket Rivers Valley National Heritage Corridor.

(b) PURPOSE.—It is the purpose of this title to provide assistance to the State of Connecticut, its units of local and regional government and citizens in the development and implementation of integrated cultural, historical, and recreational land resource management programs in order to retain, enhance, and interpret the significant features of the lands, water, and structures of the Quinebaug and Shetucket Rivers Valley.

SEC. 104. BOUNDARIES AND ADMINISTRATION.

(a) BOUNDARIES.—The boundaries of the Corridor shall include the towns of Ashford, Brooklyn, Canterbury, Chaplin, Coventry, Eastford, Franklin, Griswold, Hampton, Killingly, Lebanon, Lisbon, Mansfield, Norwich, Plainfield, Pomfret, Preston, Putnam, Scotland, Sprague, Sterling, Thompson, Voluntown, Windham, and Woodstock. As soon as practical after the date of enactment of this Act, the Secretary shall publish in the Federal Register a detailed description and map of boundaries established under this subsection.

SEC. 105. STATE CORRIDOR PLAN.

(a) PREPARATION OF PLAN.—Within two years after the date of enactment of this title, the Governor of the State of Connecticut is encouraged to develop a Cultural Heritage and Corridor Management Plan. The plan shall be based on existing Federal, State, and local plans, but shall coordinate those plans and present a comprehensive historic preservation, interpretation, and recreational plan for the Corridor. The plan shall—

(1) recommend non-binding advisory standards and criteria pertaining to the construction, preservation, restoration, alteration and use of properties within the Corridor, including an inventory of such properties which potentially could be preserved, restored, managed, developed, maintained, or acquired based upon their historic, cultural or recreational significance;

(2) develop an historic interpretation plan to interpret the history of the Corridor;

(3) develop an inventory of existing and potential recreational sites which are developed or which could be developed within the Corridor;

(4) recommend policies for resource management which consider and detail application of appropriate land and water management techniques, including but not limited to, the development of intergovernmental cooperative agreements to protect the Corridor's historical, cultural, recreational, scenic, and natural resources in a manner consistent with supporting appropriate and compatible economic revitalization efforts:

(5) detail ways in which local, State, and Federal programs may best be coordinated to promote the purposes of this title; and

(6) contain a program for implementation of the plan by the State and its political subdivisions.

(b) PUBLIC INVOLVEMENT IN PLAN DEVELOPMENT.—During development of the Plan, the Governor is encouraged to include:

(1) the participation of at least the following:

(A) local elected officials in the communities defined in section 104;

(B) representatives of the three Regional Planning Agencies defined in section 108;

(C) representatives of Northeast Connecticut Visitors District and Southeastern Connecticut Tourism District;

(D) the Commissioners, or their designees, of the Connecticut Department of Environmental Protection and the Connecticut Department of Economic Development;

(E) Director, or his designee of the Connecticut State Historical Commission; and

(F) residents of the communities within the Corridor as defined in section 104.

(2) hold at least one public hearing in each of the following counties: Windham; Tolland, and New London; and

(3) consider, to the maximum extent practicable, the recommendations, comments, proposals and other information submitted at the public hearings when developing the final version of the plan. The Governor is encouraged to publish notice of hearings discussed in subparagraph (2) of this paragraph in newspapers of general circulation at least 30 days prior to the hearing date. The Governor is encouraged to use any other means authorized by Connecticut law to gather public input and/or involve members of the public in the development of the plan.

(c) IMPLEMENTATION OF PLAN.—After review of the plan by the Secretary as provided for in section 106, the Governor shall implement the plan. Upon the request of the Governor, the Secretary may take appropriate steps to assist in the preservation and interpretation of historic resources, and to assist in the development of recreational resources within the Corridor. These steps may include, but need not be limited to—

(1) assisting the State and local governmental entities or regional planning organizations, and non-profit organizations in preserving the Corridor and ensuring appropriate use of lands and structures throughout the Corridor;

(2) assisting the State and local governmental entities or regional planning organizations, and non-profit organizations in establishing and maintaining visitor centers and other interpretive exhibits in the Corridor;

(3) assisting the State and local governmental entities or regional planning organizations, and nonprofit organizations in developing recreational programs and resources in the Corridor;

(4) assisting the State and local governmental entities or regional planning organizations, and nonprofit organizations in increasing public awareness of and appreciation for the historical and architectural resources and sites in the Corridor;

(5) assisting the State and local governmental or regional planning organizations and nonprofit organizations in the restoration of historic buildings within the Corridor identified pursuant to the inventory required in section 5(a)(1);

(6) encouraging by appropriate means enhanced economic and industrial development in the Corridor consistent with the goals of the plan;

(7) encouraging local governments to adopt land use policies consistent with the management of the Corridor and the goals of the plan; and

(8) assisting the State and local governmental entities or regional planning organizations to ensure that clear, consistent signs identifying access points and sites of interest are put in place throughout the Corridor.

SEC. 106. DUTIES OF THE SECRETARY.

(a) ASSISTANCE.—The Secretary and the heads of other Federal Agencies shall, upon request of the Governor assist the Governor in the preparation and implementation of the plan.

(b) COMPLETION.—Upon completion of the plan the Governor shall submit such plan to the Secretary for review and comment. The Secretary shall complete such review and comment within 60 days. The Governor shall make such changes in the plan as he deems appropriate based on the Secretary's review and comment.

SEC. 107. DUTIES OF OTHER FEDERAL ENTITIES.

Any Federal entity conducting or supporting activities directly affecting the Corridor shall consult with the Secretary and the Governor with respect to such activities to minimize any adverse effect on the Corridor.

SEC. 108. DEFINITIONS.

For the purposes of this title:

(1) The term "State" means the State of Connecticut.

(2) The term "Corridor" means the Quinebaug and Shetucket Rivers Valley National Heritage Corridor under section 103.

(3) The term "Governor" means the Governor of the State of Connecticut.

(4) The term "Secretary" means the Secretary of the Interior.

(5) The term "regional planning organization" means each of the three regional planning organizations established by Connecticut State statute chapter 127 and chapter 50 (the Northeastern Connecticut Council of Governments, the Windham Regional Planning Agency or its successor, and the Southeastern Connecticut Regional Planning Agency or its successor).

SEC. 109. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated such sums as may be necessary to carry out this title: Provided, That not more than $200,000 shall be appropriated for fiscal year 1995, and not more than $250,000 annually thereafter shall be appropriated for the Secretary to carry out his duties under this title for a period not to exceed seven years: Provided further, That the Federal

funding for the Corridor shall not exceed 50 percent of the total annual costs for the Corridor.

SEC. 110. NATIONAL PARK SERVICE.

The Corridor shall not be deemed to be a unit of the National Park System.

TITLE II—WEIR FARM NATIONAL HISTORIC SITE ADDITIONS.

SEC. 201. SHORT TITLE.

This title may be cited as the "Weir Farm National Historic Site Expansion Act of 1994".

SEC. 202. PURPOSE.

The purpose of this title is to preserve the last remaining undeveloped parcels of the historic Weir Farm that remain in private ownership by including the parcels within the boundary of the Weir Farm National Historic Site.

SEC. 203. BOUNDARY ADJUSTMENT.

(a) ADJUSTMENT.—Section 4(b) of the Weir Farm National Historic Site Establishment Act of 1990 (Public Law 101–485; 104 Stat. 1171) is amended—

(1) by striking out "and" at the end of paragraph (1);

(2) by striking out the flush material below paragraph (2); and

(3) by adding at the end the following:

"(3) the approximately 2-acre parcel of land situated in the town of Wilton, Connecticut, designated as lot 18 on a map entitled 'Revised Map of Section I, Thunder Lake at Wilton, Connecticut, Scale 1' = 100', October 27, 1978, Ryan and Faulds Land Surveyors, Wilton, Connecticut', that is on file in the office of the town clerk of the town of Wilton, and therein numbered 3673; and

"(4) the approximately 0.9-acre western portion of a parcel of land situated in the town of Wilton, Connecticut, designated as Tall Oaks Road on the map referred to in paragraph (3).".

(b) GENERAL DEPICTION.—Section 4 of such Act, as amended by subsection (a), is further amended by adding at the end the following:

"(c) GENERAL DEPICTION.—The parcels referred to in paragraphs (1) through (4) of subsection (b) are all as generally depicted on a map entitled "Boundary Map, Weir Farm National Historic Site, Fairfield County Connecticut", dated June, 1994. Such map shall be on file and available for public inspection in the appropriate offices of the National Park Service.".

TITLE III—CANE RIVER CREOLE NATIONAL HISTORICAL PARK.

SEC. 301. SHORT TITLE.

Titles III and IV of this Act may be cited as the "Cane River Creole National Historical Park and National Heritage Area Act".

SEC. 302. FINDINGS AND PURPOSES.

(a) FINDINGS.—The Congress finds that—

(1) the Natchitoches area along Cane River, established in 1714, is the oldest permanent settlement in the Louisiana Purchase territory;

(2) the Cane River area is the locale of the development of Creole culture, from French-Spanish interactions of the early 18th century to today's living communities;

(3) the Cane River, historically a segment of the Red River, provided the focal point for early settlement, serving as a transportation route upon which commerce and communication reached all parts of the colony;

(4) although a number of Creole structures, sites, and landscapes exist in Louisiana and elsewhere, unlike the Cane River area, most are isolated examples, and lack original outbuilding complexes or integrity;

(5) the Cane River area includes a great variety of historical features with original elements in both rural and urban settings and a cultural landscape that represents various aspects of Creole culture, providing the base for a holistic approach to understanding the broad continuum of history within the region;

(6) the Cane River region includes the Natchitoches National Historic Landmark District, composed of approximately 300 publicly and privately owned properties, four other national historic landmarks, and other structures and sites that may meet criteria for landmark significance following further study;

(7) historic preservation within the Cane River area has greatly benefitted from individuals and organizations that have strived to protect their heritage and educate others about their rich history; and

(8) because of the complexity and magnitude of preservation needs in the Cane River area, and the vital need for a culturally sensitive approach, a partnership approach is desirable for addressing the many preservation and educational needs.

(b) PURPOSES.—The purposes of titles III and IV of this Act are to—

(1) recognize the importance of the Cane River Creole culture as a nationally significant element of the cultural heritage of the United States;

(2) establish a Cane River Creole National Historical Park to serve as the focus of interpretive and educational programs on the history of the Cane River area and to assist in the preservation of certain historic sites along the river; and

(3) establish a Cane River National Heritage Area and Commission to be undertaken in partnership with the State of Louisiana, the City of Natchitoches, local communities and settlements of the Cane River area, preservation organizations, and private landowners, with full recognition that programs must fully involve the local communities and landowners.

SEC. 303. ESTABLISHMENT OF CANE RIVER CREOLE NATIONAL HISTORICAL PARK.

(a) IN GENERAL.—In order to assist in the preservation and interpretation of, and education concerning, the Creole culture and diverse history of the Natchitoches region, and to provide technical assistance to a broad range of public and private landowners and preservation organizations, there is hereby established the Cane River Creole National Historical Park in the State of Louisiana (hereinafter in titles III and IV of this Act referred to as the "historical park").

(b) AREA INCLUDED.—The historical park shall consist of lands and interests therein as follows:

(1) Lands and structures associated with the Oakland Plantation as depicted on map CARI, 80,002, dated January 1994.

(2) Lands and structures owned or acquired by Museum Contents, Inc. as depicted on map CARI, 80,001A, dated May 1994.

(3) Sites that may be the subject of cooperative agreements with the National Park Service for the purposes of historic preservation and interpretation including, but not limited to, the Melrose Plantation, the Badin-Roque site, the Cherokee Plantation, the Beau Fort Plantation, and sites within the Natchitoches National Historical Landmark District: Provided, That such sites may not be added to the historical park unless the Secretary of the Interior (hereinafter referred to as the "Secretary") determines, based on further research and planning, that such sites meet the applicable criteria for national historical significance, suitability, and feasibility, and notification of the proposed addition has been transmitted to the Committee on Energy and Natural Resources of the United States Senate and the appropriate committees of the House of Representatives.

(4) Not to exceed 10 acres of land that the Secretary may designate for an interpretive visitor center complex to serve the needs of the historical park and heritage area established in title IV of this Act.

SEC. 304. ADMINISTRATION.

(a) IN GENERAL.—The Secretary shall administer the historical park in accordance with this title and with provisions of law generally applicable to units of the National Park System, including the Act entitled "An Act to establish a National Park Service, and for other purposes", approved August 25, 1935 (49 Stat. 535; 16 U.S.C. 1, 2–4); and the Act of August 21, 1935 (49 Stat. 666; 16 U.S.C. 461–467). The Secretary shall manage the historical park in such a manner as will preserve resources and cultural landscapes relating to the Creole culture of the Cane River and enhance public understanding of the important cultural heritage of the Cane River region.

(b) DONATIONS.—The Secretary may accept and retain donations of funds, property, or services from individuals, foundations, or other public or private entities for the purposes of providing programs, services, facilities, or technical assistance that further the purposes of titles III and IV of this Act. Any funds donated to the Secretary pursuant to this subsection may be expended without further appropriation.

(c) INTERPRETIVE CENTER.—The Secretary is authorized to construct, operate, and maintain an interpretive center on lands identified by the Secretary pursuant to section 303(b)(4). Such center shall provide for the general information and orientation needs of the historical park and the heritage area. The Secretary shall consult with the State of Louisiana, the City of Natchitoches, the Association for the Preservation of Historic Natchitoches, and the Cane River National Heritage Area Commission pursuant to section 402 of this Act in the planning and development of the interpretive center.

(d) COOPERATIVE AGREEMENTS AND TECHNICAL ASSISTANCE.—(1) The Secretary, after consultation with the Cane River National Heritage Area Commission established pursuant to section 402 of this Act, is authorized to enter into cooperative agreements with owners of properties within the heritage area and owners of properties within the historical park that provide important educational and interpretive opportunities relating to the heritage of the Cane River region. The Secretary may also enter into cooperative agreements for the purpose of facilitating the preservation of important historic sites and structures identified in the historical park's general management plan or other heritage elements related to the heritage of the Cane River region. Such cooperative agreements shall specify that the National Park Service shall have reasonable rights of access for operational and visitor use needs and that preservation treatments will meet the Secretary's standards for rehabilitation of historic buildings.

(2) The Secretary is authorized to enter into cooperative agreements with the City of Natchitoches, the State of Louisiana, and other public or private organizations for the development of the interpretive center, educational programs, and other materials that will facilitate public use of the historical park and heritage area.

(e) RESEARCH.—The Secretary, acting through the National Park Service, shall coordinate a comprehensive research program on the complex history of the Cane River region, including ethnography studies of the living communities along the Cane River, and how past and present generations have adapted to their environment, including genealogical studies of families within the Cane River area. Research shall include, but not be limited to, the extensive primary historic documents within the Natchitoches and Cane River areas, and curation methods for their care and exhibition. The research program shall be coordinated with Northwestern State University of Louisiana, and the National Center for Preservation Technology and Training in Natchitoches.

SEC. 305. ACQUISITION OF PROPERTY.

(a) GENERAL AUTHORITY.—Except as otherwise provided in this section, the Secretary is

authorized to acquire lands and interests therein within the boundaries of the historical park by donation, purchase with donated or appropriated funds, or exchange.

(b) STATE AND LOCAL PROPERTIES.—Lands and interests therein that are owned by the State of Louisiana, or any political subdivision thereof, may be acquired only by donation or exchange.

(c) MUSEUM CONTENTS, INC.—Lands and structures identified in section 303(b)(2) may be acquired only by donation.

(d) COOPERATIVE AGREEMENT SITES.—Lands and interests therein that are the subject of cooperative agreements pursuant to section 303(b)(3) shall not be acquired except with the consent of the owner thereof.

SEC. 306. GENERAL MANAGEMENT PLAN.

Within 3 years after the date funds are made available therefor and in consultation with the Cane River Heritage Area Commission, the National Park Service shall prepare a general management plan for the historical park. The plan shall include but need not be limited to—

(1) a visitor use plan indicating programs and facilities that will be provided for public use, including the location and cost of an interpretive center;

(2) programs and management actions that the National Park Service will undertake cooperatively with the heritage area commission, including preservation treatments for important sites, structures, objects, and research materials. Planning shall address educational media, roadway signing, and brochures that could be coordinated with the Commission pursuant to section 403 of this Act; and

(3) preservation and use plans for any sites and structures that are identified for National Park Service involvement through cooperative agreements.

TITLE IV—CANE RIVER NATIONAL HERITAGE AREA

SEC. 401. ESTABLISHMENT OF THE CANE RIVER NATIONAL HERITAGE AREA.

(a) ESTABLISHMENT.—There is hereby established the Cane River National Heritage Area (hereinafter in this title referred to as the "heritage area").

(b) PURPOSE.—In furtherance of the need to recognize the value and importance of the Cane River region and in recognition of the findings of section 302(a) of this Act, it is the purpose of this title to establish a heritage area to complement the historical park and to provide for a culturally sensitive approach to the preservation of the heritage of the Cane River region, and for other needs including—

(1) recognizing areas important to the Nation's heritage and identity;

(2) assisting in the preservation and enhancement of the cultural landscape and traditions of the Cane River region;

(3) providing a framework for those who live within this important dynamic cultural landscape to assist in preservation and educational actions; and

(4) minimizing the need for Federal land acquisition and management.

(c) AREA INCLUDED.—The heritage area shall include—

(1) an area approximately 1 mile on both sides of the Cane River as depicted on map CARI, 80,000A, dated May 1994;

(2) those properties within the Natchitoches National Historic Landmark District which are the subject of cooperative agreements pursuant to section 304(d) of this Act;

(3) the Los Adaes State Commemorative Area;

(4) the Fort Jesup State Commemorative Area;

(5) the Fort St. Jean Baptiste State Commemorative Area; and

(6) the Kate Chopin House.

A final identification of all areas and sites to be included in the heritage area shall be included in the heritage area management plan as required in section 403.

SEC. 402. CANE RIVER NATIONAL HERITAGE AREA COMMISSION.

(a) ESTABLISHMENT.—To assist in implementing the purposes of titles II and III of this Act and to provide guidance for the management of the heritage area, there is established the Cane River National Heritage Acra Commission (hereinafter in this title referred to as the "Commission").

(b) MEMBERSHIP.—The Commission shall consist of 19 members to be appointed no later than 6 months after the date of enactment of this title. The Commission shall be appointed by the Secretary as follows—

(1) one member from recommendations submitted by the Mayor of Natchitoches;

(2) one member from recommendations submitted by the Association for the Preservation of Historic Natchitoches;

(3) one member from recommendations submitted by the Natchitoches Historic Foundation, Inc.;

(4) two members with experience in and knowledge of tourism in the heritage area from recommendations submitted by the local business and tourism organizations;

(5) one member from recommendations submitted by the Governor of the State of Louisiana;

(6) one member from recommendations submitted by the Police Jury of Natchitoches Parish;

(7) one member from recommendations submitted by the Concerned Citizens of Cloutierville;

(8) one member from recommendations submitted by the St. Augustine Historical Society;

(9) one member from recommendations submitted by the Black Heritage Committee;

(10) one member from recommendations submitted by the Los Ades/Robeline Community;

(11) one member from recommendations submitted by the Natchitoches Historic District Commission;

(12) one member from recommendations submitted by the Cane River Waterway Commission;

(13) two members who are landowners in and residents of the heritage area;

(14) one member with experience and knowledge of historic preservation from recommendations submitted by Museum Contents, Inc.;

(15) one member with experience and knowledge of historic preservation from recommendations submitted by the President of Northwestern State University of Louisiana;

(16) one member with experience in and knowledge of environmental, recreational and conservation matters affecting the heritage area from recommendations submitted by the Natchitoches Sportsman Association and other local recreational and environmental organizations; and

(17) the Director of the National Park Service, or the Director's designee, ex officio.

(c) DUTIES OF THE COMMISSION.—The Commission shall—

(1) prepare a management plan for the heritage area in consultation with the National Park Service, the State of Louisiana, the City of Natchitoches, Natchitoches Parish, interested groups, property owners, and the public;

(2) consult with the Secretary on the preparation of the general management plan for the historical park;

(3) develop cooperative agreements with property owners, preservation groups, educational groups, the State of Louisiana, the City of Natchitoches, universities, and tourism groups, and other groups to further the purposes of titles III and IV of this Act; and

(4) identify appropriate entities, such as a non-profit corporation, that could be established to assume the responsibilities of the Commission following its termination.

(d) POWERS OF THE COMMISSION.—In furtherance of the purposes of titles III and IV of this Act, the Commission is authorized to—

(1) procure temporary and intermittent services to the same extent that is authorized by section 3109(b) of title 5, United States Code, but at rates determined by the Commission to be reasonable;

(2) accept the services of personnel detailed from the State of Louisiana or any political subdivision thereof, and may reimburse the State or political subdivision for such services;

(3) upon the request of the Commission, the head of any Federal agency may detail, on a reimbursable basis, any of the personnel of such agency to the Commission to assist the Commission in carrying out its duties;

(4) appoint and fix the compensation of such staff as may be necessary to carry out its duties. Staff shall be appointed subject to the provisions of title 5, United States Code, governing appointments in the competitive service, and shall be paid in accordance with the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates;

(5) enter into cooperative agreements with public or private individuals or entities for research, historic preservation, and education purposes;

(6) make grants to assist in the preparation of studies that identify, preserve, and plan for the management of the heritage area;

(7) notwithstanding any other provision of law, seek and accept donations of funds or services from individuals, foundations, or other public or private entities and expend the same for the purposes of providing services and programs in furtherance of the purposes of titles III and IV of this Act;

(8) assist others in developing educational, informational, and interpretive programs and facilities;

(9) hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence, as the Commission may consider appropriate; and

(10) use the United States mails in the same manner and under the same conditions as other departments or agencies of the United States.

(e) COMPENSATION.—Members of the Commission shall receive no compensation for their service on the Commission. While away from their homes or regular places of business in the performance of services for the Commission, members shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in the Government service are allowed expenses under section 5703 of title 5, United States Code.

(f) CHAIRMAN.—The Commission shall elect a chairman from among its members. The term of the chairman shall be for 3 years.

(g) TERMS.—The terms of Commission members shall be for 3 years. Any member of the Commission appointed by the Secretary for a 3-year term may serve after expiration of his or her term until a successor is appointed. Any vacancy shall be filled in the same manner in which the original appointment was made. Any member appointed to fill a vacancy shall serve for the remainder of the term for which the predecessor was appointed.

(h) ANNUAL REPORTS.—The Commission shall submit an annual report to the Secretary identifying its expenses and any income, the entities to which any grants or technical assistance were made during the year for which the report is made, and actions that are planned for the following year.

SEC. 403. PREPARATION OF THE PLAN.

(a) IN GENERAL.—Within 3 years after the Commission conducts its first meeting, it shall prepare and submit a heritage area management

plan to the Governor of the State of Louisiana. The Governor shall, if the Governor approves the plan, submit it to the Secretary for review and approval. The Secretary shall provide technical assistance to the Commission in the preparation and implementation of the plan, in concert with actions by the National Park Service to prepare a general management plan for the historical park. The plan shall consider local government plans and shall present a unified heritage preservation and education plan for the heritage area. The plan shall include, but not be limited to—

(1) an inventory of important properties and cultural landscapes that should be preserved, managed, developed, and maintained because of their cultural, natural, and public use significance;

(2) an analysis of current land uses within the area and how they affect the goals of preservation and public use of the heritage area;

(3) an interpretive plan to address the cultural and natural history of the area, and actions to enhance visitor use. This element of the plan shall be undertaken in consultation with the National Park Service and visitor use plans for the historical park;

(4) recommendations for coordinating actions by local, State, and Federal governments within the heritage area, to further the purposes of titles III and IV of this Act; and

(5) an implementation program for the plan including desired actions by State and local governments and other involved groups and entities.

(b) APPROVAL OF THE PLAN.—The Secretary shall approve or disapprove the plan within 90 days after receipt of the plan from the Commission. The Commission shall notify the Secretary of the status of approval by the Governor of Louisiana when the plan is submitted for review and approval. In determining whether or not to approve the plan the Secretary shall consider—

(1) whether the Commission has afforded adequate opportunity, including public meetings and hearings, for public and governmental involvement in the preparation of the plan; and

(2) whether reasonable assurances have been received from the State and local governments that the plan is supported and that the implementation program is feasible.

(c) DISAPPROVAL OF THE PLAN.—If the Secretary disapproves the plan, he shall advise the Commission in writing of the reasons for disapproval, and shall provide recommendations and assistance in the revision of the plan. Following completion of any revisions to the plan, the Commission shall resubmit the plant to the Government or Louisiana for approval, and to the Secretary, who shall approve or disapprove the plan within 90 days after the date that the plan is revised.

SEC. 404. TERMINATION OF HERITAGE AREA COMMISSION.

(a) TERMINATION.—The Commission shall terminate on the day occurring 10 years after the first official meeting of the Commission.

(b) EXTENSION.—The Commission may petition to be extended for a period of not more than 5 years beginning on the day referred to in subsection (a), provided the Commission determines a critical need to fulfill the purposes of titles III and IV of this Act; and the Commission obtains approval from the Secretary, in consultation with the Governor of Louisiana.

(c) HERITAGE AREA MANAGEMENT FOLLOWING TERMINATION OF THE COMMISSION.—The national heritage area status for the Cane River region shall continue following the termination of the Commission. The management plan, and partnerships and agreements subject to the plan shall guide the future management of the heritage area. The Commission, prior to its termination, shall recommend to the Governor of the State of Louisiana and the Secretary, appropriate entities, including the potential for a nonprofit corporation, to assume the responsibilities of the Commission.

SEC. 405. DUTIES OF OTHER FEDERAL AGENCIES.

Any Federal entity conducting or supporting activities directly affecting the heritage area shall—

(1) consult with the Secretary and the Commission with respect to implementation of their proposed actions; and

(2) to the maximum extent practicable, coordinate such activities with the Commission to minimize potential impacts on the resources of the heritage area.

SEC. 406. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as may be necessary to carry out titles III and IV of this Act.

INTRASTATE TOW AND WRECKER TRUCK TRANSPORTATION TECHNICAL CORRECTION ACT

The text of the bill (H.R. 5123) to make a technical correction to an Act preempting State economic regulation of motor carriers, as passed by the Senate on October 6, 1994, is as follows:

H. 5123

Resolved, That the bill from the House of Representatives (H.R. 5123) entitled "An Act to make a technical correction to an Act preempting State economic regulation of motor carriers", do pass with the following amendment:

Strike out all after the enacting clause and insert:

SECTION 1. TECHNICAL CORRECTION OF 1994 FFA AUTHORIZATION ACT.

(a) IN GENERAL.—Section 11501(h)(2) of title 49, United States Code, is amended—

(1) by striking out "and" at the end of subparagraph (A);

(2) by striking out the period at the end of subparagraph (B) and inserting in lieu thereof a semicolon; and

(3) by adding at the end the following:

"(C) does not apply to the transportation of garbage and refuse;

"(D) does not apply to the transportation for collection of recyclable materials that are a part of a residential curbside recycling program; and

"(E) does not restrict the regulatory authority of a State, political subdivision of a State, or political authority of 2 or more States before January 1, 1997, insofar as such authority relates to tow trucks or wreckers providing for-hire service.".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect on January 1, 1995.

FEDERAL RAILROAD SAFETY AUTHORIZATION ACT

The text of the bill (H.R. 4545) to amend the Federal Railroad Safety Act of 1970, and for other purposes, as passed by the Senate on October 6, 1994, is as follows:

H.R. 4545

Resolved, That the bill from the House of Representatives (H.R. 4545) entitled "An Act to amend the rail safety provisions of title 49, United States Code, and for other purposes", do pass with the following amendments:

Strike out all after the enacting clause and insert:

SECTION. 1. SHORT TITLES.

(a) TITLE I.—Title I of this Act may be cited as the "Federal Railroad Safety Authorization Act of 1994".

(b) TITLE II.—Title II of this Act may be cited as the "High Risk Drivers Act of 1994".

TITLE I—FEDERAL RAILROAD SAFETY

SEC. 101. AUTHORIZATION OF APPROPRIATIONS.

Section 20117(a)(1) of title 49, United States Code, is amended by inserting after subparagraph (B) the following:

"(C) $68,289,000 for the fiscal year ending September 30, 1995.

"(D) $75,112,000 for the fiscal year ending September 30, 1996.

"(E) $82,563,000 for the fiscal year ending September 30, 1997.

"(F) $90,739,000 for the fiscal year ending September 30, 1998.".

SEC. 102. HOURS OF SERVICE PILOT PROJECT.

(a) IN GENERAL.—Chapter 211 of title 49, United States Code, is amended by adding at the end the following new section:

"§ 12108. Hours of service pilot project

"(a) PILOT PROJECTS AUTHORIZED.—A railroad or railroads, and all labor organizations representing any directly affected covered service employees of the railroad or railroads, may jointly petition the Secretary of Transportation for approval of one or more pilot projects to demonstrate the possible benefits and costs of implementing alternatives to the requirements of this Act, including, but not limited to, those concerning maximum on-duty and minimum off-duty periods. Based on such a joint petition, the Secretary, after notice and opportunity for comment, may waive, in whole or in part, compliance with this Act for a period of no more than 2 years, if the Secretary determines that such waiver of compliance is in the public interest and is consistent with railroad safety. Any such waiver may, based on a new petition, be extended for additional periods of up to 2 years, after notice and opportunity for comment. An explanation of any waiver granted under this section shall be published in the Federal Register.

"(b) REPORT.—The Secretary shall submit to Congress no later than June 1, 1996, an interim report that discusses the status of the pilot project program and a final report by January 1, 1998, that explains and analyzes the impact on safety, railroad operating conditions, railroad operations, and potential benefits of any pilot projects approved under this section.".

(b) CIVIL PENALTY.—The first sentence of section 21303(a) of title 49, United States Code, is amended by inserting a comma and "or a provision of a waiver granted under section 12108 of this title," after "of this title" the second place it appears.

(c) CLERICAL AMENDMENT.—The table of sections for chapter 211 of title 49, United States Code, is amended by adding at the end thereof the following:

"12108. Hours of service pilot project.".

SEC. 103. TECHNICAL AMENDMENT TO FEDERAL RAILROAD SAFETY ACT OF 1970.

Section 20111(c) of title 49, United States Code, is amended by inserting "this chapter or any of the laws transferred to the jurisdiction of the Secretary of Transportation by subsection (e)(1), (2), or (6)(A) of section 6 of the Department of Transportation Act, as such Act is in effect on June 1, 1994, or" after "individual's violation of".

SEC. 104. BIENNIAL REPORTING ON IMPLEMENTATION OF FEDERAL RAILROAD SAFETY ACT OF 1970.

(a) IN GENERAL.—Section 20116 of title 49, United States Code, is amended by striking "not later than July 1 of each year a report on carrying out this chapter for the prior calendar year"

in the first sentence and inserting "every 2 years, on or before July 1, a report on carrying out this chapter for the preceding 2 calendar years".

(b) CONFORMING AMENDMENT.—The section heading for that section is amended by striking "Annual report" and inserting in lieu thereof "Biennial report".

SEC. 105. STATE HIGHWAY SAFETY MANAGEMENT SYSTEMS.

(a) AMENDMENT OF REGULATIONS.—The Secretary of Transportation shall conduct a rulemaking proceeding to amend the regulations under section 500.407 of title 23, Code of Federal Regulations, to require that each highway safety management system developed, established, and implemented by a State shall, among countermeasures and priorities established under subsection (b)(2) of that section—

(1) include public railroad-highway grade-crossing closure plans that are aimed at eliminating high-risk or redundant crossings (as defined by the Secretary);

(2) include railroad-highway grade-crossing policies that limit the creation of new at-grade crossings for vehicle or pedestrian traffic, recreational use, or any other purpose; and

(3) include plans for State policies, programs, and resources to further reduce death and injury at high-risk railroad-highway grade crossings.

(b) DEADLINE.—The Secretary of Transportation shall complete the rulemaking proceeding described in subsection (a) and prescribe the required amended regulations, not later than one year after the date of enactment of this Act.

SEC. 106. EMERGENCY NOTIFICATION OF GRADE-CROSSING PROBLEMS.

Section 20134 of title 49, United States Code, is amended by adding at the end thereof the following new subsection:

"(d) PILOT PROGRAMS.—

"(1) The Secretary of Transportation shall conduct a pilot program to demonstrate an emergency notification system utilizing a toll free telephone number that the public can use to convey to railroads, either directly or through public safety personnel, information about malfunctions or other safety problems at railroad-highway grade crossings. The pilot program, at a minimum—

"(A) shall include railroad-highway grade crossings in at least 2 States,

"(B) shall include provisions for public education and awareness of the program, and

"(C) shall require information to be posted at the railroad-highway grade crossing describing the emergency notification system and instructions on how to use the system.

The Secretary may, by grant, provide funding for the expense of information signs and public awareness campaigns necessary to demonstrate the notification system.

"(2) The Secretary shall complete the pilot program not later than 24 months after the date of enactment of the Federal Railroad Safety Authorization Act of 1994, and shall submit to the Congress not later than 30 months after that date an evaluation of the pilot program, together with findings as to the effectiveness of such emergency notification systems. The report shall compare and contrast the structure, cost, and effectiveness of the pilot program with other emergency notification systems in effect within other States. Such evaluation shall include analyses of the safety benefits derived from the programs, cost effectiveness, and the burdens on participants, including the railroads and law enforcement personnel.

"(3) Unless the Secretary determines that—

"(A) the national notification system would not be a cost-effective means of providing timely and accurate notification of railroad-highway grade crossing safety emergencies; or

"(B) State-level notification systems evaluated by the Secretary offer a clearly superior means of providing such notification, and the Secretary includes in the report to the Congress under paragraph (2) a strategy and schedule for extending such systems to other States;

then the Secretary shall establish, and shall issue implementing regulations for, a national notification system, within 24 months after the date on which the report is issued. The regulations shall include provisions requiring railroads to erect and maintain appropriate signs and to provide necessary railroad-highway grade crossing information to the United States DOT/AAR Rail-Highway Grade Crossing Inventory.

"(4) In addition to sums authorized under section 20117(a)(1) of this title, there are authorized to be appropriated to carry out this section not to exceed $700,000 for fiscal year 1995, $250,000 for fiscal year 1996, $800,000 for fiscal year 1997, and $400,000 for fiscal year 1998.".

SEC. 107. OPERATION LIFESAVER.

(a) AUTHORIZATION OF APPROPRIATIONS.—In addition to amounts otherwise authorized by law, there are authorized to be appropriated for railroad research and development $300,000 for fiscal year 1995, $500,000 for fiscal year 1996, and $750,000 for fiscal year 1997, to support Operation Lifesaver, Inc.

(b) PROGRAM REQUIREMENTS.—The Secretary of Transportation shall not provide financial assistance from any amount appropriated for railroad research and development to Operation Lifesaver, Inc., in excess of $150,000 for any fiscal year unless—

(1) such excess funding is for the development and implementation of a national, multi-year, multimedia public information and law enforcement program for the reduction of fatalities and serious injuries involving railroad-highway grade crossings and trespassing on railroad rights-of-way and property; and

(2) at least 30 percent of the costs of developing and implementing such program is provided from non-Federal sources, including States and railroads.

(c) SECRETARY OR DELEGATES TO SERVE EX OFFICIO ON BOARDS OF RECIPIENT ORGANIZATIONS.—In order to ensure maximum coordination and effectiveness in carrying out the Operation Lifesaver program, the Secretary of Transportation or, by delegation, the Administrator of the Federal Railroad Administration and the Administrator of the Federal Highway Administration, is authorized to serve, ex officio, as a member of the board of directors (or similar governing body) of any organization receiving funds made available by the Secretary for carrying out a program of public information and education to reduce or prevent motor vehicle accidents, injuries, and fatalities, or to improve driver performance, at railroad-highway grade crossings, and to prevent trespassing on railroad rights-of-way and resulting injuries and fatalities.

SEC. 108. INTELLIGENT VEHICLE-HIGHWAY SYSTEMS.

(a) IN GENERAL.—In implementing the Intelligent Vehicle-Highway Systems Act of 1991 (23 U.S.C. 307 note), the Secretary of Transportation shall ensure that the National Intelligent Vehicle-Highway Systems Program addresses, in a comprehensive and coordinated manner, the use of intelligent vehicle-highway technologies to promote safety at railroad-highway grade crossings. The Secretary of Transportation shall ensure that two or more operational tests funded under such Act shall promote highway traffic safety and railroad safety.

SEC. 109. VIOLATION OF GRADE-CROSSING LAWS AND REGULATIONS.

(a) FEDERAL REGULATIONS.—Section 31311 of title 49, United States Code, is amended by adding at the end the following new subsection:

"(h) GRADE-CROSSING VIOLATIONS.—

"(1) SANCTIONS.—The Secretary shall issue regulations establishing sanctions and penalties relating to violations, by persons operating commercial motor vehicles, of laws and regulations pertaining to railroad-highway grade crossings.

"(2) MINIMUM REQUIREMENTS.—Regulations issued under paragraph (1) shall, at a minimum, require that—

"(A) the penalty for a single violation shall not be less than a 60-day disqualification of the driver's commercial driver's license; and

"(B) any employer that knowingly allows, permits, authorizes, or requires an employee to operate a commercial motor vehicle in violation of such a law or regulation shall be subject to a civil penalty of not more than $10,000.".

(b) DEADLINE.—The initial regulations required under section 31310(h) of title 49, United States Code, shall be issued not later than one year after the date of enactment of this Act.

(c) STATE REGULATIONS.—Section 31311(a) of title 49, United States Code, is amended by adding at the end the following new paragraph:

"(18) GRADE-CROSSING REGULATIONS.—The State shall adopt and enforce regulations prescribed by the Secretary under section 31310(h) of this title.".

SEC. 110. SAFETY ENFORCEMENT.

(a) COOPERATION BETWEEN FEDERAL AND STATE AGENCIES.—The National Highway Traffic Safety Administration, and the Office of Motor Carriers within the Federal Highway Administration, shall on a continuing basis cooperate and work with the National Association of Governors' Highway Safety Representatives, the Commercial Vehicle Safety Alliance, and Operation Lifesaver, Inc., to improve compliance with and enforcement of laws and regulations pertaining to railroad-highway grade crossings.

(b) REPORT.—The Secretary of Transportation shall submit a report to Congress by January 1, 1996, indicating (1) how the Department worked with the above mentioned entities to improve the awareness of the highway and commercial vehicle safety and law enforcement communities of regulations and safety challenges at railroad-highway grade crossings, and (2) how resources are being allocated to better address these challenges and enforce such regulations.

SEC. 111. INSTITUTE FOR RAILROAD AND GRADE-CROSSING SAFETY.

The Secretary of Transportation, in conjunction with a university or college having expertise in highway, traffic, and railroad safety, shall establish, within one year of enactment of this Act, an Institute for Railroad and Grade-Crossing Safety. The Institute shall research, develop, fund, or test measures for reducing the number of fatalities and injuries in railroad operations, focusing on improvements in railroad-highway grade-crossing safety, railroad trespassing, prevention, and enforcement. There is hereby authorized to be appropriated to the Secretary $1,000,000 for each of the fiscal years 1996 through 2000 to fund activities under the preceding sentence carried out by the Institute, which shall report at least once each year on its use of such funds in carrying out such activities and the results thereof to the Secretary of Transportation and the Congress.

SEC. 112. RAILROAD GRADE-CROSSING TRESPASSING AND VANDALISM PREVENTION STRATEGY.

(a) EVALUATION OF EXISTING LAWS.—In consultation with affected parties, the Secretary of Transportation shall evaluate and review current local, State, and Federal laws regarding trespassing on railroad property and vandalism affecting railroad safety, and develop model prevention strategies and enforcement laws to be used for the consideration of State and local legislatures and governmental entities. The first such evaluation and review shall be completed

within 1 year after the date of enactment of this Act. The Secretary shall revise such model prevention strategies and enforcement codes periodically.

(b) OUTREACH PROGRAM.—The Secretary shall develop and maintain a comprehensive outreach program to improve communications among Federal railroad safety inspectors, State inspectors certified by the Federal Railroad Administration, railroad police, and State and local law enforcement officers, for the purpose of addressing trespassing and vandalism problems on the railroads and railroad property, and strengthening relevant enforcement strategies. This program shall be designed to increase public and police awareness of the illegality of, dangers inherent in, and the extent of, trespassing on railroad rights-of-way, to develop strategies to improve the prevention of trespassing and vandalism, and to improve the enforcement of laws relating to railroad trespass, vandalism, and grade crossings safety.

(c) MODEL LEGISLATION.—Within 18 months after the date of enactment of this Act, the Secretary, after consultation with State and local governments, shall develop and make available to State and local governments model State legislation providing for—

(1) civil or criminal penalties, or both, for vandalism of railroad equipment or property which could affect the safety of the public or of railroad employees; and

(2) civil or criminal penalties, or both, for trespassing on a railroad owned or leased right-of-way.

SEC. 113. WARNING OF CIVIL LIABILITY.

The Secretary of Transportation shall encourage railroads to warn the public about potential liability for violation of regulations related to vandalism of railroad-highway grade crossing signs, devices, and equipment and to trespass on railroad property.

SEC. 114. LOCOMOTIVE WHISTLE BAN PROHIBITION.

(a) PROHIBITION.—No State or political subdivision thereof shall enact or enforce a locomotive whistle ban with respect to any railroad-highway grade crossing or series of railroad-highway grade crossings after December 31, 1995, unless, consistent with regulations issued under subsection (c), one of the following actions has been taken with respect to a crossing or series of crossings (as determined by the Secretary)—

(1) the affected crossing is closed during the hours covered by the ban;

(2) crossing gates and median barriers have been installed and are operational;

(3) 4-quadrant gates have been installed and are operating; or

(4) other effective safety measures, described in regulations issued by the Secretary (including regulations involving the demonstration and evaluation of new safety measures), are in place at an affected crossing or series of crossings.

(b) TESTING.—The Secretary of Transportation is authorized to approve the testing of railroad-highway grade crossing safety measures, including demonstration and evaluation of such measures at railroad-highway grade crossings.

(c) REGULATIONS.—By January 1, 1996, the Secretary of Transportation shall issue regulations implementing this section. These regulations shall include—

(1) standards for safety measures identified in paragraphs (1), (2), and (3) of subsection (a);

(2) identification of any additional safety measures that provide an equivalent level of safety to that provided by the safety measures identified in paragraphs (2) and (3) of subsection (a); and

(3) procedures for securing approval to demonstrate new railroad-highway grade crossing safety measures at railroad-highway grade crossings.

SEC. 115. RAILROAD CAR VISIBILITY.

(a) REVIEW OF RULES.—The Secretary of Transportation shall conduct a review of the Department of Transportation's rules with respect to railroad car visibility. As part of this review, the Secretary shall collect relevant data from operational experience by railroads having enhanced visibility measures in service. The Secretary shall also conduct such research as may be required to establish whether enhanced visibility of railroad cars would improve driver behavior and thereby reduce railroad-highway grade crossing accidents.

(b) REGULATIONS.—If the review and research conducted under subsection (a) establishes that enhanced railroad car visibility would likely enhance safety in a cost-effective manner, the Secretary shall initiate a rulemaking proceeding to issue regulations requiring substantially enhanced visibility standards for newly manufactured and remanufactured railroad cars. In such proceeding the Secretary shall consider, at a minimum—

(1) visibility from the perspective of an automobile driver;

(2) whether certain railroad car paint colors should be prohibited or required;

(3) the use of reflective materials;

(4) the visibility of lettering on railroad cars;

(5) the effect of any enhanced visibility measures on the health and safety of train crew members; and

(6) the cost/benefit ratio of any new regulations.

(c) EXCLUSIONS.—In issuing regulations under subsection (b), the Secretary may exclude from any specific visibility requirement any category of trains or railroad operations if the Secretary determines that such an exclusion is in the public interest and is consistent with railroad safety including railroad-highway crossing safety.

SEC. 116. CROSSING ELIMINATION; STATEWIDE CROSSING FREEZE.

(a) STATEMENT OF POLICY.—

(1) Railroad-highway grade crossings present inherent hazards to the safety of railroad operations and to the safety of persons using those crossings. It is in the public interest—

(A) to eliminate redundant and high risk railroad-highway grade crossings; and

(B) to limit the creation of new crossings to the minimum necessary to provide for the reasonable mobility of the American people and their property, including emergency access.

(2) Elimination of redundant and high-risk railroad-highway grade crossings is necessary to permit optimum use of available funds to improve the safety of remaining crossings, including funds provided under Federal law.

(3) Effective programs to reduce the number of unneeded railroad-highway grade crossings, and to close those crossings that cannot be made reasonably safe (due to reasons of topography, angles of intersection, etc.), require the partnership of Federal, State, and local officials and agencies, and affected railroads.

(4) Promotion of a balanced national transportation system requires that highway planning specifically take into consideration the interface between highways and the national railroad system.

(b) PARTNERSHIP AND OVERSIGHT.—The Secretary shall foster a partnership among Federal, State, and local transportation officials and agencies to reduce the number of railroad-highway grade crossings and to improve safety at remaining crossings. The Secretary shall make provision for periodic review to ensure that each State (including State subdivisions and local governments) is making substantial, continued progress toward achievement of the purposes of this section.

(c) CROSSING FREEZE.—If, upon review, and after opportunity for a hearing, the Secretary determines that a State or political subdivision thereof has failed to make substantial, continued progress toward achievement of the purposes of this section, then the Secretary shall impose a limit on the maximum number of public railroad-highway grade crossings in that State. The limitation imposed by the Secretary under this subsection shall remain in effect until the State demonstrates compliance with the requirements of this section. In addition, the Secretary may, for a period of not more than 3 years after such a determination, require compliance with specific numeric targets for net reductions in the number of railroad-highway grade crossings (including specification of hazard categories with which such crossings are associated).

(d) REGULATIONS.—The Secretary shall issue such regulations as may be necessary to carry out this section.

SEC. 117. RESEARCH PRIORITIES.

(a) 5-YEAR PLAN.—

(1) The Secretary of Transportation shall submit to Congress a 5-year strategic plan that will demonstrate improved programs to enhance railroad safety (including human factors and railroad-highway grade-crossing safety), the prevention of trespassing on railroad property, and the prevention of vandalism to railroad-highway grade crossing safety devices and signs. With respect to human factors, the strategic plan shall establish a comprehensive program to investigate workload, stress, and fatigue, operator training, ergonomics, operating rules, and other areas judged appropriate by the Secretary.

(2) The plan shall be incorporated into the research, technology development, and testing priorities of the Federal Railroad Administration.

(3) The plan shall be submitted to Congress no later than January 1, 1996.

(4) There are authorized to be appropriated for conducting such programs $3,500,000 for each of the fiscal years 1996 through 1999.

(b) PARTICIPATION OF OTHER AGENCIES.—In carrying out the activities authorized by this Act, the Secretary shall cooperate with other Federal agencies and seek to maximize the use of Federal monies to apply defense-related technologies to railroad-highway grade crossing safety, trespassing prevention, and other railroad-safety initiatives.

SEC. 118. COORDINATION WITH THE DEPARTMENT OF LABOR.

The Secretary of Transportation shall consult with the Secretary of Labor on a regular basis to assure that all applicable laws affecting safe working conditions for railroad employees are appropriately enforced to assure a safe and productive working environment for the railroad industry.

SEC. 119. POSITIVE TRAIN CONTROL SYSTEM PROGRESS REPORT.

The Secretary of Transportation shall make annual progress reports to the Committees of the Senate and of the House of Representatives with jurisdiction over railroads on the development, deployment, and demonstration of Positive Train Control Systems.

SEC. 120. PASSENGER CAR SAFETY STANDARDS.

Section 20133 of title 49, United States Code, is amended by adding at the end the following new subsection:

"(d) MINIMUM STANDARDS.—

"(1) The Secretary shall issue regulations establishing minimum standards for the safety of cars used by railroads to transport passengers. The regulations shall address, at a minimum, crashworthiness of the cars, interior features (including luggage restraints, seat belts, and exposed surfaces) that may affect passenger safety; maintenance and inspection of the cars; emergency response procedures and equipment; and any operating rules and conditions that directly affect safety not otherwise governed by regulations or orders. The Secretary may make

applicable some or all of these standards to cars existing at the time of the issuance of the regulations as well as to new cars, and the Secretary shall explain in the rulemaking document the basis for making such standards applicable to existing cars.

"(2) The Secretary shall issue initial standards for railroad passenger safety, including standards addressing core safety concerns for which research has been completed, within 3 years after the date of enactment of the Federal Railroad Safety Authorization Act of 1994. The initial standards may except equipment used by historical, scenic, and excursion railroads to transport passengers. The Secretary shall complete the issuance of passenger safety standards required by this section within 5 years after such date.

"(3) The Secretary is authorized to establish within the Department of Transportation 2 additional full time equivalent positions beyond the number currently authorized by existing law to assist with the drafting, issuance, and implementation of the regulations described in paragraph (1).".

SEC. 121. GRANT AUTHORITY.

Section 103 of title 49, United States Code, is amended by redesignating subsection (d) as (e), and by inserting after subsection (c) the following new subsection:

"(d) Subject to the provisions of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 471 et seq.), the Secretary may make, enter into, and perform such contracts, grants, leases, cooperative agreements, and other similar transactions with Federal or other public agencies (including State and local governments) and private organizations and persons, and to make such payments, by way of advance or reimbursement, as the Secretary may determine to be necessary or appropriate to carry out functions of the Federal Railroad Administration. The authority of the Secretary granted by this subsection shall be carried out by the Administrator. Notwithstanding any other provision of this chapter, no authority to enter into contracts or to make payments under this subsection shall be effective, except as provided for in appropriation Acts.".

SEC. 122. TOURIST RAILROADS.

Section 20103 of title 49, United States Code, is amended by adding at the end thereof the following new subsection:

"(f) In prescribing regulations that pertain to safety that affect tourist, historic, or excursion railroad carriers, the Secretary shall take into consideration any financial, operational, or other factors that may be unique to such railroad carriers. The Secretary shall submit a report to Congress not later than September 30, 1995, on efforts made to revise and update regulations that pertain to safety that affect tourist, historical, or excursion railroad carriers. The report shall address the financial, operational, and other factors that may be unique to these railroads.".

SEC. 123. AUTHORIZATION.

There are authorized to be appropriated to the Secretary of Transportation for the benefit of Amtrak $40,000,000 for fiscal year 1995 and $50,000,000 for fiscal year 1996 to be used for engineering, design, and construction activities to enable the James A. Farley Post Office in New York, New York, to be used as a train station and commercial center and for necessary improvements and redevelopment of the existing Pennsylvania Station and associated service bundling in New York, New York.

TITLE II—HIGH RISK DRIVERS PROGRAM

SUBTITLE A—HIGH-RISK AND ALCOHOL-IMPAIRED DRIVERS

SEC. 211. FINDINGS.

The Congress makes the following findings:

(1) The Nation's traffic fatality rate has declined from 5.5 deaths per 100 million vehicle miles traveled in 1966 to an historic low of an estimated 1.8 deaths per 100 million vehicle miles traveled during 1992. In order to further this desired trend, the safety programs and policies implemented by the Department of Transportation must be continued, and at the same time, the focus of these efforts as they pertain to high risk drivers of all ages must be strengthened.

(2) Motor vehicle crashes are the leading cause of death among teenagers, and teenage drivers tend to be at fault for their fatal crashes more often than older drivers. Drivers who are 16 to 20 years old comprised 7.4 percent of the United States population in 1991 but were involved in 15.4 percent of fatal motor vehicle crashes. Also, on the basis of crashes per 100,000 licensed drivers, young drivers are the highest risk group of drivers.

(3) During 1991, 6,630 teenagers from age 15 through 20 died in motor vehicle crashes. This tragic loss demands that the Federal Government intensify its efforts to promote highway safety among members of this high risk group.

(4) The consumption of alcohol, speeding over allowable limits or too fast for road conditions, inadequate use of occupant restraints, and other high risk behaviors are several of the key causes for this tragic loss of young drivers and passengers. The Department of Transportation, working cooperatively with the States, student groups, and other organizations, must reinvigorate its current programs and policies to address more effectively these pressing problems of teenage drivers.

(5) In 1991 individuals aged 70 years and older, who are particularly susceptible to injury, were involved in 12 percent of all motor vehicle traffic crash fatalities. These deaths accounted for 4,828 fatalities out of 41,462 total traffic fatalities.

(6) The number of older Americans who drive is expected to increase dramatically during the next 30 years. Unfortunately, during the last 15 years, the Department of Transportation has supported an extremely limited program concerning older drivers. Research on older driver behavior and licensing has suffered from intermittent funding at amounts that were insufficient to address the scope and nature of the challenges ahead.

(7) A major objective of United States transportation policy must be to promote the mobility of older Americans while at the same time ensuring public safety on our Nation's highways. In order to accomplish these two objectives simultaneously, the Department of Transportation must support a vigorous and sustained program of research, technical assistance, evaluation, and other appropriate activities that are designed to reduce the fatality and crash rate of older drivers who have identifiable risk characteristics.

SEC. 212. DEFINITIONS.

For purposes of this subtitle—

(1) The term "high risk driver" means a motor vehicle driver who belongs to a class of drivers that, based on vehicle crash rates, fatality rates, traffic safety violation rates, and other factors specified by the Secretary, presents a risk of injury to the driver and other individuals that is higher than the risk presented by the average driver.

(2) The term "Secretary" means the Secretary of Transportation.

SEC. 213. POLICY AND PROGRAM DIRECTION.

(a) GENERAL RESPONSIBILITY OF SECRETARY.—The Secretary shall develop and implement effective and comprehensive policies and programs to promote safe driving behavior by young drivers, older drivers, and repeat violators of traffic safety regulations and laws.

(b) SAFETY PROMOTION ACTIVITIES.—The Secretary shall promote or engage in activities that seek to ensure that—

(1) cost effective and scientifically-based guidelines and technologies for the nondiscriminatory evaluation and licensing of high risk drivers are advanced;

(2) model driver training, screening, licensing, control, and evaluation programs are improved;

(3) uniform or compatible State driver point systems and other licensing and driver record information systems are advanced as a means of identifying and initially evaluating high risk drivers; and

(4) driver training programs and the delivery of such programs are advanced.

(c) DRIVER TRAINING RESEARCH.—The Secretary shall explore the feasibility and advisability of using cost efficient simulation and other technologies as a means of enhancing driver training; shall advance knowledge regarding the perceptual, cognitive, and decision making skills needed for safe driving and to improve driver training; and shall investigate the most effective means of integrating licensing, training, and other techniques for preparing novice drivers for the safe use of highway systems.

SUBTITLE B—YOUNG DRIVER PROGRAMS

SEC. 221. STATE GRANTS FOR YOUNG DRIVER PROGRAMS.

(a) ESTABLISHMENT OF GRANT PROGRAM.—Chapter 4 of title 23, United States Code, is amended by adding at the end the following new section:

"§411. Programs for young drivers

"(a) GENERAL AUTHORITY.—Subject to the provisions of this section, the Secretary shall make basic and supplemental grants to those States which adopt and implement programs for young drivers which include measures, described in this section, to reduce traffic safety problems resulting from the driving performance of young drivers. Such grants may only be used by recipient States to implement and enforce such measures.

"(b) MAINTENANCE OF EFFORT.—No grant may be made to a State under this section in any fiscal year unless such State enters into such agreements with the Secretary as the Secretary may require to ensure that such State will maintain its aggregate estimated expenditures from all other sources for programs for young drivers at or above the average level of such expenditures in its 2 fiscal years preceding the fiscal year in which the High Risk Drivers Act of 1994 is enacted.

"(c) FEDERAL SHARE.—No State may receive grants under this section in more than 5 fiscal years. The Federal share payable for any grant under this section shall not exceed—

"(1) in the first fiscal year a State receives a grant under this section, 75 percent of the cost of implementing and enforcing in such fiscal year the young driver program adopted by the State pursuant to subsection (a);

"(2) in the second fiscal year the State receives a grant under this section, 50 percent of the cost of implementing and enforcing in such fiscal year such program; and

"(3) in the third, fourth, and fifth fiscal years the State receives a grant under this section, 25 percent of the cost of implementing and enforcing in such fiscal year such program.

"(d) MAXIMUM AMOUNT OF BASIC GRANTS.—Subject to subsection (c), the amount of a basic grant made under this section for any fiscal year to any State which is eligible for such a grant under subsection (e) shall equal 30 percent of the amount apportioned to such State for fiscal year 1989 under section 402 of this title. A grant to a State under this section shall be in addition to the State's apportionment under section 402, and basic grants during any fiscal year may be proportionately reduced to accommodate an applicable statutory obligation limitation for that fiscal year.

"(e) ELIGIBILITY FOR BASIC GRANTS.—

"(1) GENERAL.—For purposes of this section, a State is eligible for a basic grant if such State—

"(A) establishes and maintains a graduated licensing program for drivers under 18 years of age that meets the requirements of paragraph (2); and

"(B)(i) in the first year of receiving grants under this section, meets three of the seven criteria specified in paragraph (3);

"(ii) in the second year of receiving such grants, meets four of such criteria;

"(iii) in the third year of receiving such grants, meets five of such criteria;

"(iv) in the fourth year of receiving such grants, meets six of such criteria; and

"(v) in fifth year of receiving such grants, meets six of such criteria.

For purposes of subparagraph (B), a State shall be treated as having met one of the requirements of paragraph (3) for any year if the State demonstrates to the satisfaction of the Secretary that, for the 3 preceding years, the alcohol fatal crash involvement rate for individuals under the age of 21 has declined in that State and the alcohol fatal crash involvement rate for such individuals has been lower in that State than the average such rate for all States.

"(2) GRADUATED LICENSING PROGRAM.—

"(A) A State receiving a grant under this section shall establish and maintain a graduated licensing program consisting of the following licensing stages for any driver under 18 years of age:

"(i) An instructional license, valid for a minimum period determined by the Secretary, under which the licensee shall not operate a motor vehicle unless accompanied in the front passenger seat by the holder of a full driver's license.

"(ii) A provisional driver's license which shall not be issued unless the driver has passed a written examination on traffic safety and has passed a roadtest administered by the driver licensing agency of the State.

"(iii) A full driver's license which shall not be issued until the driver has held a provisional license for at least 1 year with a clean driving record.

"(B) For purposes of subparagraph (A)(iii), subsection (f)(1), and subsection (f)(6)(B), a provisional licensee has a clean driving record if the licensee—

"(i) has not been found, by civil or criminal process, to have committed a moving traffic violation during the applicable period;

"(ii) has not been assessed points against the license because of safety violations during such period; and

"(iii) has satisfied such other requirements as the Secretary may prescribe by regulation.

"(C) The Secretary shall determine the conditions under which a State shall suspend provisional driver's licenses in order to be eligible for a basic grant. At a minimum, the holder of a provisional license shall be subject to driver control actions that are stricter than those applicable to the holder of a full driver's license, including warning letters and suspension at a lower point threshold.

"(D) For a State's first 2 years of receiving a grant under this section, the Secretary may waive the clean driving record requirement of subparagraph (A)(iii) if the State submits satisfactory evidence of its efforts to establish such a requirement.

"(3) CRITERIA FOR BASIC GRANT.—The seven criteria referred to in paragraph (1)(B) are as follows:

"(A) The State requires that any driver under 21 years of age with a blood alcohol concentration of 0.02 percent or greater when driving a motor vehicle shall be deemed to be driving while intoxicated for the purpose of (i) administrative or judicial sanctions or (ii) a law or regulation that prohibits any individual under 21 years of age with a blood alcohol concentration of 0.02 percent or greater from driving a motor vehicle.

"(B) The State has a law or regulation that provides a mandatory minimum penalty of at least $500 for anyone who in violation of State law or regulation knowingly, or without checking for proper identification, provides or sells alcohol to any individual under 21 years of age.

"(C) The State requires that the license of a driver under 21 years of age be suspended for a period specified by the State if such driver is convicted of the unlawful purchase or public possession of alcohol. The period of suspension shall be at least 6 months for a first conviction and at least 12 months for a subsequent conviction; except that specific license restrictions may be imposed as an alternative to such minimum periods of suspension where necessary to avoid undue hardship on any individual.

"(D) The State conducts youth-oriented traffic safety enforcement activities, and education and training programs—

"(i) with the participation of judges and prosecutors, that are designed to ensure enforcement of traffic safety laws and regulations, including those that prohibit drivers under 21 years of age from driving while intoxicated, restrict the unauthorized use of a motor vehicle, and establish other moving violations; and

"(ii) with the participation of student and youth groups, that are designed to ensure compliance with such traffic safety laws and regulations.

"(E) The State prohibits the possession of any open alcoholic beverage container, or the consumption of any alcoholic beverage, in the passenger area of any motor vehicle located on a public highway or the right-of-way of a public highway; except as allowed in the passenger area, by persons (other than the driver), of a motor vehicle designed to transport more than 10 passengers (including the driver) while being used to provide charter transportation of passengers.

"(F) The State provides, to a parent or legal guardian of any provisional licensee, general information prepared with the assistance of the insurance industry on the effect of traffic safety convictions and at-fault accidents on insurance rates for young drivers.

"(G) The State requires that a provisional driver's license may be issued only to a driver who has satisfactorily completed a State-accepted driver education and training program that meets Department of Transportation guidelines and includes information on the interaction of alcohol and controlled substances and the effect of such interaction on driver performance, and information on the importance of motorcycle helmet use and safety belt use.

"(f) SUPPLEMENTAL GRANT PROGRAM.—

"(1) EXTENDED APPLICATION OF PROVISIONAL LICENSE REQUIREMENT.—For purposes of this section, a State is eligible for a supplemental grant for a fiscal year in an amount, subject to subsection (c), not to exceed 10 percent of the amount apportioned to such State for fiscal year 1989 under section 402 of this title if such State is eligible for a basic grant and in addition such State requires that a driver under 21 years of age shall not be issued a full driver's license until the driver has held a provisional license for at least 1 year with a clean driving record as described in subsection (e)(2)(B).

"(2) REMEDIAL DRIVER EDUCATION.—For purposes of this section, a State is eligible for a supplemental grant for a fiscal year in an amount, subject to subsection (c), not to exceed 5 percent of the amount apportioned to such State for fiscal year 1989 under section 402 of this title if such State is eligible for a basic grant and in addition such State requires, at a lower point threshold than for other drivers, remedial driver improvement instruction for drivers under 21 years of age and requires such remedial instruction for any driver under 21 years of age who is convicted of reckless driving, excessive speeding, driving under the influence of alcohol, or driving while intoxicated.

"(3) RECORD OF SERIOUS CONVICTIONS; HABITUAL OR REPEAT OFFENDER SANCTIONS.—For purposes of this section, a State is eligible for a supplemental grant for a fiscal year in an amount, subject to subsection (c), not to exceed 5 percent of the amount apportioned to such State for fiscal year 1989 under section 402 of this title if such State is eligible for a basic grant and in addition such State—

"(A) requires that a notation of any serious traffic safety conviction of a driver be maintained on the driver's permanent traffic record for at least 10 years after the date of the conviction; and

"(B) provides additional sanctions for any driver who, following conviction of a serious traffic safety violation, is convicted during the next 10 years of one or more subsequent serious traffic safety violations.

"(4) INTERSTATE DRIVER LICENSE COMPACT.—The State is a member of and substantially complies with the interstate agreement known as the Driver License Compact, promptly and reliably transmits and receives through electronic means interstate driver record information (including information on commercial drivers) in cooperation with the Secretary and other States, and develops and achieves demonstrable annual progress in implementing a plan to ensure that (i) each court of the State report expeditiously to the State driver licensing agency all traffic safety convictions, license suspensions, license revocations, or other license restrictions, and driver improvement efforts sanctioned or ordered by the court, and that (ii) such records be available electronically to appropriate government officials (including enforcement, officers, judges, and prosecutors) upon request at all times.

"(5) The State has a law or regulation that provides a minimum penalty of at least $100 for anyone who in violation of State law or regulation drives any vehicle through, around, or under any crossing, gate, or barrier at a railroad crossing while such gate or barrier is closed or being opened or closed.

"(6) VEHICLE SEIZURE PROGRAM.—The State has a law or regulation that—

"(A) mandates seizure by the State or any political subdivision thereof of any vehicle driven by an individual in violation of an alcohol-related traffic safety law, if such violator has been convicted on more than one occasion of an alcohol-related traffic offense within any 5-year period beginning after the date of enactment of this section, or has been convicted of driving while his or her driver's license is suspended or revoked by reason of a conviction for such an offense;

"(B) mandates that the vehicle be forfeited to the State or a political subdivision thereof if the vehicle was solely owned by such violator at the time of the violation;

"(C) requires that the vehicle be returned to the owner if the vehicle was a stolen vehicle at the time of the violation; and

"(D) authorizes the vehicle to be released to a member of such violator's family, the co-owner, or the owner, if the vehicle was not a stolen vehicle and was not solely owned by such violator at the time of the violation, and if the family member, co-owner, or owner, prior to such release, executes a binding agreement that the family member, co-owner, or owner will not permit such violator to drive the vehicle and that the vehicle shall be forfeited to the State or a political subdivision thereof in the event such violator drives the vehicle with the permission of the family member, co-owner or owner.

"(g) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section, $9,000,000 for the fiscal year ending September 30, 1996, $12,000,000 for the fiscal year ending September 30, 1997, and $14,000,000 for the fiscal year ending September 30, 1998, $16,000,000 for the fiscal year ending September 30, 1999, and $18,000,000 for the fiscal year ending September 30, 2000.".

(b) CONFORMING AMENDMENT.—The analysis of chapter 4 of title 23, United States Code, is amended by inserting immediately after the item relating to section 410 the following new item:

"411. Programs for young drivers.".

(c) DEADLINES FOR ISSUANCE OF REGULATIONS.—The Secretary shall issue and publish in the Federal Register proposed regulations to implement section 411 of title 23, United States Code (as added by this section), not later than 6 months after the date of enactment of this Act. The final regulations for such implementation shall be issued, published in the Federal Register, and transmitted to Congress not later than 12 months after such date of enactment.

SEC. 222. PROGRAM EVALUATION.

(a) EVALUATION BY SECRETARY.—The Secretary shall, under section 403 of title 23, United States Code, conduct an evaluation of the effectiveness of State provisional driver's licensing programs and the grant program authorized by section 411 of title 23, United States Code (as added by section 101 of this Act).

(b) REPORT TO CONGRESS.—By January 1, 1997, the Secretary shall transmit a report on the results of the evaluation conducted under subsection (a) and any related research to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Public Works and Transportation of the House of Representatives. The report shall include any related recommendations by the Secretary for legislative changes.

SUBTITLE C—OLDER DRIVER PROGRAMS

SEC. 231. OLDER DRIVER SAFETY RESEARCH.

(a) RESEARCH ON PREDICTABILITY OF HIGH RISK DRIVING.—

(1) The Secretary shall conduct a program that funds, within budgetary limitations, the research challenges presented in the Transportation Research Board's report entitled "Research and Development Needs for Maintaining the Safety and Mobility of Older Drivers" and the research challenges pertaining to older drivers presented in a report to Congress by the National Highway Traffic Safety Administration entitled "Addressing the Safety Issues Related to Younger and Older Drivers".

(2) To the extent technically feasible, the Secretary shall consider the feasibility and further the development of cost efficient, reliable tests capable of predicting increased risk of accident involvement or hazardous driving by older high risk drivers.

(b) SPECIALIZED TRAINING FOR LICENSE EXAMINERS.—The Secretary shall encourage and conduct research and demonstration activities to support the specialized training of license examiners or other certified examiners to increase their knowledge and sensitivity to the transportation needs and physical limitations of older drivers, including knowledge of functional disabilities related to driving, and to be cognizant of possible countermeasures to deal with the challenges to safe driving that may be associated with increasing age.

(c) COUNSELING PROCEDURES AND CONSULTATION METHODS.—The Secretary shall encourage and conduct research and disseminate information to support and encourage the development of appropriate counseling procedures and consultation methods with relatives, physicians, the traffic safety enforcement and the motor vehicle licensing communities, and other concerned parties. Such procedures and methods shall include the promotion of voluntary action by older high risk drivers to restrict or limit their driving when medical or other conditions indicate such action is advisable. The Secretary shall consult extensively with the American Association of Retired Persons, the American Association of Motor Vehicle Administrators, the American Occupational Therapy Association, the American Automobile Association, the Department of Health and Human Services, the American Public Health Association, and other interested parties in developing educational materials on the interrelationship of the aging process, driver safety, and the driver licensing process.

(d) ALTERNATIVE TRANSPORTATION MEANS.—The Secretary shall ensure that the agencies of the Department of Transportation overseeing the various modes of surface transportation coordinate their policies and programs to ensure that funds authorized under the Intermodal Surface Transportation Efficiency Act of 1991 (Public Law 102–240; 105 Stat. 1914) and implementing Department of Transportation and Related Agencies Appropriation Acts take into account the transportation needs of older Americans by promoting alternative transportation means whenever practical and feasible.

(e) STATE LICENSING PRACTICES.—The Secretary shall encourage State licensing agencies to use restricted licenses instead of canceling a license whenever such action is appropriate and if the interests of public safety would be served, and to closely monitor the driving performance of older drivers with such licenses. The Secretary shall encourage States to provide educational materials of benefit to older drivers and concerned family members and physicians. The Secretary shall promote licensing and relicensing programs in which the applicant appears in person and shall promote the development and use of cost effective screening processes and testing of physiological, cognitive, and perception factors as appropriate and necessary. Not less than one model State program shall be evaluated in light of this subsection during each of the fiscal years 1996 through 1998. Of the sums authorized under subsection (i), $250,000 is authorized for each such fiscal year for such evaluation.

(f) IMPROVEMENT OF MEDICAL SCREENING.—The Secretary shall conduct research and other activities designed to support and encourage the States to establish and maintain medical review or advisory groups to work with State licensing agencies to improve and provide current information on the screening and licensing of older drivers. The Secretary shall encourage the participation of the public in these groups to ensure fairness and concern for the safety and mobility needs of older drivers.

(g) INTELLIGENT VEHICLE-HIGHWAY SYSTEMS.—In implementing the Intelligent Vehicle-Highway Systems Act of 1991 (23 U.S.C. 307 note), the Secretary shall ensure that the National Intelligent Vehicle-Highway Systems Program devotes sufficient attention to the use of intelligent vehicle-highway systems to aid older drivers in safely performing driver functions. Federally-sponsored research, development, and operational testing shall ensure the advancement of night vision improvement systems, technology to reduce the involvement of older drivers in accidents occurring at intersections, and other technologies of particular benefit to older drivers.

(h) TECHNICAL EVALUATIONS UNDER INTERMODAL SURFACE TRANSPORTATION EFFICIENCY ACT.—In conducting the technical evaluations required under section 6055 of the Intermodal Surface Transportation Efficiency Act of 1991 (Public Law 102–240; 105 Stat. 2192), the Secretary shall ensure that the safety impacts on older drivers are considered, with special attention being devoted to ensuring adequate and effective exchange of information between the Department of Transportation and older drivers or their representatives.

(i) AUTHORIZATION OF APPROPRIATIONS.—Of the funds authorized under section 403 of title 23, United States Code, $1,250,000 is authorized for each of the fiscal years 1995 through 1997, to support older driver programs described in subsections (a), (b), (c), (e), and (f).

SUBTITLE D—HIGH RISK DRIVERS

SEC. 241. STUDY ON WAYS TO IMPROVE TRAFFIC RECORDS OF ALL HIGH RISK DRIVERS.

(a) IN GENERAL.—Within 1 year after the date of enactment of this Act, the Secretary shall complete a study to determine whether additional or strengthened Federal activities, authority, or regulatory actions are desirable or necessary to improve or strengthen the driver record and control systems of the States to identify high risk drivers more rapidly and ensure prompt intervention in the licensing of high risk drivers. The study, which shall be based in part on analysis obtained from a request for information published in the Federal Register, shall consider steps necessary to ensure that State traffic record systems are unambiguous, accurate, current, accessible, complete, and (to the extent useful) uniform among the States.

(b) SPECIFIC MATTERS FOR CONSIDERATION.—Such study shall at a minimum consider—

(1) whether specific legislative action is necessary to improve State traffic record systems;

(2) the feasibility and practicality of further encouraging and establishing a uniform traffic ticket citation and control system;

(3) the need for a uniform driver violation point system to be adopted by the States;

(4) the need for all the States to participate in the Driver License Reciprocity Program conducted by the American Association of Motor Vehicle Administrators;

(5) ways to encourage the States to cross-reference driver license files and motor vehicle files to facilitate the identification of individuals who may not be in compliance with driver licensing laws; and

(6) the feasibility of establishing a national program that would limit each driver to one driver's license from only one State at any time.

(c) EVALUATION OF NATIONAL INFORMATION SYSTEMS.—As part of the study required by this section, the Secretary shall consider and evaluate the future of the national information systems that support driver licensing. In particular, the Secretary shall examine whether the Commercial Driver's License Information System, the National Driver Register, and the Driver License Reciprocity program should be more closely linked or continue to exist as separate information systems and which entities are best suited to operate such systems effectively at the least cost. The Secretary shall cooperate with the American Association of Motor Vehicle Administrators in carrying out this evaluation.

SEC. 242. STATE PROGRAMS FOR HIGH RISK DRIVERS.

The Secretary shall encourage and promote State driver evaluation, assistance, or control programs for high risk drivers. These programs may include in-person license reexaminations, driver education or training courses, license restrictions or suspensions, and other actions designed to improve the operating performance of high risk drivers.

SUBTITLE E—FUNDING

SEC. 251. FUNDING FOR 23 USC 410 PROGRAM.

In addition to any amount otherwise appropriated or available for such use, there are authorized to be appropriated $15,000,000 for fiscal years 1995, 1996, and 1997 for the purpose of carrying out section 410 of title 23, United States Code.

Amend the title so as to read: "An Act to authorize appropriations to carry out certain Federal railroad safety laws, and for other purposes.".

LAND SALE BY THE UNIVERSITY OF ARKANSAS

The text of the bill (S. 2550) to provide for the sale of certain lands of the University of Arkansas, as passed by the Senate on October 7, 1994, is as follows:

S. 2550

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SALE OF LAND BY THE UNIVERSITY OF ARKANSAS.

Notwithstanding any other provision of law, the University of Arkansas may sell, under such terms and conditions as the University may specify, approximately 103.52 acres of land in Washington County, Arkansas, that is owned by the University, commonly known as the "Walker Tract". Such sale may be made only on the condition that all of the proceeds of such sale are used for the purposes of agricultural research facilities and programs of the University of Arkansas.

IMPLEMENTATION OF OIL POLLUTION ACT WITH RESPECT TO ANIMAL FATS AND VEGETABLE OILS

The text of the bill (S. 2559) relating to the implementation of the Oil Pollution Act with respect to animal fats and vegetable oils, as passed by the Senate on October 8, 1994, is as follows:

S. 2559

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That in implementing the Oil Pollution Act of 1990 (Public Law 101-380), Federal agencies shall differentiate between animal fats or oils of vegetable origin and other oils, including petroleum oils, on the basis of their physical, chemical, biological, and other properties, and their environmental effects.

THE COOPERATIVE WORK TRUST FUND AMENDMENTS OF 1994

The text of the bill (S. 2560) to allow the collection and payment of funds following the completion of cooperative work involving the protection, management, and improvement of the National Forest System, and for other purposes, as passed by the Senate on October 8, 1994, is as follows:

S. 2560

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. COOPERATIVE WORK FOR PROTECTION, MANAGEMENT, AND IMPROVEMENT OF NATIONAL FOREST SYSTEM.

The penultimate paragraph of the matter under the heading "FOREST SERVICE." of the first section of the Act of June 30, 1914 (38 Stat. 430, chapter 131; 16 U.S.C. 498), is amended—

(1) by inserting ", management," after "the protection";

(2) by striking "national forests," and inserting "National Forest System,";

(3) by inserting "management," after "protection," both places it appears; and

(4) by adding at the end the following new sentences: "Payment for work undertaken pursuant to this paragraph may be made from any appropriation of the Forest Service that is available for similar work if a written agreement so provides and reimbursement will be provided by a cooperator in the same fiscal year as the expenditure by the Forest Service. A reimbursement received from a cooperator that covers the proportionate share of the cooperator of the cost of the work shall be deposited to the credit of the appropriation of the Forest Service from which the payment was initially made or, if the appropriation is no longer available, to the credit of an appropriation of the Forest Service that is available for similar work. The Secretary of Agriculture shall establish written rules that establish criteria to be used to determine whether the acceptance of contributions of money under this paragraph would adversely affect the ability of an officer or employee of the United States Department of Agriculture to carry out a duty or program of the officer or employee in a fair and objective manner or would compromise, or appear to compromise, the integrity of the program, officer, or employee. The Secretary of Agriculture shall establish written rules that protect the interests of the Forest Service in cooperative work agreements.".

PATENT PRIOR USER RIGHTS ACT

The text of the bill (S. 2272) to amend chapter 28 of title 35, United States Code, to provide a defense to patent infringement based on prior use by certain persons, and for other purposes, as passed by the Senate on October 8, 1994, is as follows:

S. 2272

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Patent Prior User Rights Act of 1994".

SEC. 2. DEFENSE TO PATENT INFRINGEMENT BASED ON PRIOR USE.

(a) IN GENERAL.—Chapter 28 of title 35, United States Code, is amended by adding at the end thereof the following new section:

"§ 273. Rights based on prior use; defense to infringement

"(a) DEFINITIONS.—For purposes of this section—

"(1) the term 'commercially used' means used in the production of commercial products, whether or not the processes, equipment, tooling, or other materials so used are normally accessible, available, or otherwise known to the public;

"(2) the term 'effective and serious preparation' means that a person has—

"(A) actually reduced to practice the subject matter for which rights based on prior use are claimed; and

"(B) made a substantial portion of the total investment necessary, for the subject matter to be commercially used; and

"(3) the 'effective filing date' of an application for patent is the earlier of the actual filing date of the application or the filing date of any earlier United States, foreign, or international application to which the subject matter at issue is entitled under sections 119, 120, or 365 of this title.

"(b) IN GENERAL.—

"(1) DEFENSE.—A person shall not be liable as an infringer of a patent under section 271 of this title with respect to any subject matter claimed in the patent that such person had commercially used in the United States, or made effective and serious preparation therefor in the United States, before the effective filing date of the application for the patent.

"(2) GOOD FAITH PURCHASERS.—A person who purchases in good faith a product that results directly from a use or preparation therefor described in paragraph (1) shall not be liable as an infringer for continuing the use of the product purchased, or for selling to another person the product purchased.

"(c) LIMITATION OF DEFENSE.—Rights based on prior use under this section are not a general license under all claims of the patent, but, subject to subsection (d), extend only to the claimed subject matter that the person asserting the defense based on prior use had commercially used or made effective and serious preparation therefor before the effective filing date of the application for the patent.

"(d) CERTAIN VARIATIONS AND IMPROVEMENTS NOT AN INFRINGEMENT.—The rights under this section based on prior use shall include the right to vary quantities or volumes, or to make improvements, that do not infringe claims other than those claims that, but for subsection (b), would have been infringed as of the effective date of the application for patent.

"(e) QUALIFICATIONS.—

"(1) RIGHTS ARE PERSONAL.—The rights under this section based on prior use are personal and may not be licensed or assigned or transferred to any other person except in connection with the good faith assignment or transfer of the entire business or enterprise or the entire line of business or enterprise to which the rights relate.

"(2) EXCLUSIONS.—(A) A person may not claim rights under this section based on prior use if the activity under which such person claims the rights was based on information obtained or derived from the patentee or those in privity with the patentee.

"(B) If the activity under which a person claims rights under this section based on prior use is abandoned on or after the effective filing date of the application for the patent, such person may claim such rights only for that period of activity which occurred before abandonment.

"(f) BURDEN OF PROOF.—In any action in which a person claims a defense to infringement under this section, the burden of proof for establishing the defense shall be on the person claiming rights based on prior use.".

(b) TECHNICAL AND CONFORMING AMENDMENT.—The table of sections for chapter 28 of title 35, United States Code, is amended by adding at the end thereof the following:

"273. Rights based on prior use; defense to infringement.".

SEC. 3. EFFECTIVE DATE.

(a) IN GENERAL.—Subject to subsections (b) and (c), this Act and the amendments made by this Act shall take effect on the date of the enactment of this Act.

(b) EXISTING PATENT CLAIMS.—This Act and the amendments made by this Act shall apply to any action for infringement that is brought, on or after the date of the enactment of this Act, by a patentee in a case in which the effective filing date (as defined in

section 273(a)(2) of title 35, United States Code) of the application for patent is before such date of enactment, only if—

(1) no other action for the same act or acts of infringement was brought before such date of enactment, and

(2) there has been no notice of infringement under section 287 of title 35, United States Code, as of October 1, 1994, with respect to the same act or acts of infringement.

(c) EQUITABLE COMPENSATION.—In any action for infringement to which subsection (b) applies and in which the defense of prior user rights under section 273 of title 35, United States Code (as added by this Act), is asserted and determined to be valid by the court, the court may grant equitable compensation to the patentee, notwithstanding subsection (b) of such section 273. Such equitable compensation may be based on all actions of the person asserting the defense that were carried out after notice of infringement under section 287 of title 35, United States Code, which would constitute infringement of the patent but for section 273 of such title (as added by this Act).

MARYLAND-WEST VIRGINIA INTERSTATE COMPACT ACT

The text of the joint resolution (S.J. Res. 205) granting the consent of Congress to the compact to provide for joint natural resource management and enforcement of laws and regulations pertaining to natural resources and boating at the Jennings Randolph Lake Project lying in Garrett County, Maryland and Mineral County, West Virginia, entered into between the States of West Virginia and Maryland, as passed by the Senate on October 8, 1994, is as follows:

S.J. RES. 205

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. CONGRESSIONAL CONSENT.

The Congress hereby consents to the Jennings Randolph Lake Project Compact entered into between the States of West Virginia and Maryland which compact is substantially as follows:

"COMPACT

"Whereas the State of Maryland and the State of West Virginia, with the concurrence of the United States Department of the Army, Corps of Engineers, have approved and desire to enter into a compact to provide for joint natural resource management and enforcement of laws and regulations pertaining to natural resources and boating at the Jennings Randolph Lake Project lying in Garrett County, Maryland and Mineral County, West Virginia, for which they seek the approval of Congress, and which compact is as follows:

"Whereas the signatory parties hereto desire to provide for joint natural resource management and enforcement of laws and regulations pertaining to natural resources and boating at the Jennings Randolph Lake Project lying in Garrett County, Maryland and Mineral County, West Virginia, for which they have a joint responsibility; and they declare as follows:

"1. The Congress, under Public Law 87-874, authorized the development of the Jennings Randolph Lake Project for the North Branch of the Potomac River substantially in accordance with House Document Number 469, 87th Congress, 2nd Session for flood control, water supply, water quality, and recreation; and

"2. Section 4 of the Flood Control Act of 1944 (Ch 665, 58 Stat. 534) provides that the Chief of Engineers, under the supervision of the Secretary of War (now Secretary of the Army), is authorized to construct, maintain and operate public park and recreational facilities in reservoir areas under control of such Secretary for the purpose of boating, swimming, bathing, fishing, and other recreational purposes, so long as the same is not inconsistent with the laws for the protection of fish and wildlife of the State(s) in which such area is situated; and

"3. Pursuant to the authorities cited above, the U.S. Army Engineer District (Baltimore), hereinafter 'District', did construct and now maintains and operates the Jennings Randolph Lake Project; and

"4. The National Environmental Policy Act of 1969 (P.L. 91-190) encourages productive and enjoyable harmony between man and his environment, promotes efforts which will stimulate the health and welfare of man, and encourages cooperation with State and local governments to achieve these ends; and

"5. The Fish and Wildlife Coordination Act (16 U.S.C. 661-666c) provides for the consideration and coordination with other features of water-resource development programs through the effectual and harmonious planning, development, maintenance, and coordination of wildlife conservation and rehabilitation; and

"6. The District has Fisheries and Wildlife Plans as part of the District's project Operational Management Plan; and

"7. In the respective States, the Maryland Department of Natural Resources (hereinafter referred to as 'Maryland DNR') and the West Virginia Division of Natural Resources (hereinafter referred to as 'West Virginia DNR') are responsible for providing a system of control, propagation, management, protection, and regulation of natural resources and boating in Maryland and West Virginia and the enforcement of laws and regulations pertaining to those resources as provided in Annotated Code of Maryland Natural Resources Article and West Virginia Chapter 20, respectively, and the successors thereof; and

"8. The District, the Maryland DNR, and the West Virginia DNR are desirous of conserving, perpetuating and improving fish and wildlife resources and recreational benefits of the Jennings Randolph Lake Project; and

"9. The District and the States of Maryland and West Virginia wish to implement the aforesaid acts and responsibilities through this Compact and they each recognize that consistent enforcement of the natural resources and boating laws and regulations can best be achieved by entering this Compact:

"Now, therefore, be it *Resolved*, That the States of Maryland and West Virginia, with the concurrence of the United States Department of the Army, Corps of Engineers, hereby solemnly covenant and agree with each other, upon enactment of concurrent legislation by The Congress of the United States and by the respective state legislatures, to the Jennings Randolph Lake Project Compact, which consists of this preamble and the articles that follow:

"Article I—Name, Findings, and Purpose

"1.1 This compact shall be known and may be cited as the Jennings Randolph Lake Project Compact.

"1.2 The legislative bodies of the respective signatory parties, with the concurrence of the U.S. Army Corps of Engineers, hereby find and declare:

"1. The water resources and project lands of the Jennings Randolph Lake Project are affected with local, state, regional, and national interest, and the planning, conservation, utilization, protection and management of these resources, under appropriate arrangements for inter-governmental cooperation, are public purposes of the respective signatory parties.

"2. The lands and waters of the Jennings Randolph Lake Project are subject to the sovereign rights and responsibilities of the signatory parties, and it is the purpose of this compact that, notwithstanding any boundary between Maryland and West Virginia that preexisted the creation of Jennings Randolph Lake, the parties will have and exercise concurrent jurisdiction over any lands and waters of the Jennings Randolph Lake Project concerning natural resources and boating laws and regulations in the common interest of the people of the region.

"Article II—District Responsibilities

"The District, within the Jennings Randolph Lake Project,

"2.1 Acknowledges that the Maryland DNR and West Virginia DNR have authorities and responsibilities in the establishment, administration and enforcement of the natural resources and boating laws and regulations applicable to this project, provided that the laws and regulations promulgated by the States support and implement, where applicable, the intent of the Rules and Regulations Governing Public Use of Water Resources Development Projects administered by the Chief of Engineers in Title 36, Chapter RI, Part 327, Code of Federal Regulations,

"2.2 Agrees to practice those forms of resource management as determined jointly by the District, Maryland DNR and West Virginia DNR to be beneficial to natural resources and which will enhance public recreational opportunities compatible with other authorized purposes of the project,

"2.3 Agrees to consult with the Maryland DNR and West Virginia DNR prior to the issuance of any permits for activities or special events which would include, but not necessarily be limited to: fishing tournaments, training exercises, regattas, marine parades, placement of ski ramps, slalom water ski courses and the establishment of private markers and/or lighting. All such permits issued by the District will require the permittee to comply with all State laws and regulations,

"2.4 Agrees to consult with the Maryland DNR and West Virginia DNR regarding any recommendations for regulations affecting natural resources, including, but not limited to, hunting, trapping, fishing or boating at the Jennings Randolph Lake Project which the District believes might be desirable for reasons of public safety, administration of public use and enjoyment,

"2.5 Agrees to consult with the Maryland DNR and West Virginia DNR relative to the marking of the lake with buoys, aids to navigation, regulatory markers and establishing and posting of speed limits, no wake zones, restricted or other control areas and to provide, install and maintain such buoys, aids to navigation and regulatory markers as are necessary for the implementation of the District's Operational Management Plan. All buoys, aids to navigation and regulatory markers to be used shall be marked in conformance with the Uniform State Waterway Marking System,

"2.6 Agrees to allow hunting, trapping, boating and fishing by the public in accordance with the laws and regulations relating to the Jennings Randolph Lake Project,

"2.7 Agrees to provide, install and maintain public ramps, parking areas, courtesy docks, etc., as provided for by the approved Corps of Engineers Master Plan, and

"2.8 Agrees to notify the Maryland DNR and the West Virginia DNR of each reservoir drawdown prior thereto excepting drawdown for the reestablishment of normal lake levels following flood control operations and drawdown resulting from routine water control management operations described in the reservoir regulation manual including releases requested by water supply owners and normal water quality releases. In case of emergency releases or emergency flow curtailments, telephone or oral notification will be provided. The District reserves the right, following issuance of the above notice, to make operational and other tests which may be necessary to insure the safe and efficient operation of the dam, for inspection and maintenance purposes, and for the gathering of water quality data both within the impoundment and in the Potomac River downstream from the dam.

"Article III—State Responsibilities

"The State of Maryland and the State of West Virginia agree:

"3.1 That each State will have and exercise concurrent jurisdiction with the District and the other State for the purpose of enforcing the civil and criminal laws of the respective States pertaining to natural resources and boating laws and regulations over any lands and waters of the Jennings Randolph Lake Project;

"3.2 That existing natural resources and boating laws and regulations already in effect in each State shall remain in force on the Jennings Randolph Lake Project until either State amends, modifies or rescinds its laws and regulations;

"3.3 That the Agreement for Fishing Privileges dated June 24, 1985 between the State of Maryland and the State of West Virginia, as amended, remains in full force and effect;

"3.4 To enforce the natural resources and boating laws and regulations applicable to the Jennings Randolph Lake Project;

"3.5 To supply the District with the name, address and telephone number of the person(s) to be contacted when any drawdown except those resulting from normal regulation procedures occurs;

"3.6 To inform the Reservoir Manager of all emergencies or unusual activities occurring on the Jennings Randolph Lake Project;

"3.7 To provide training to District employees in order to familiarize them with natural resources and boating laws and regulations as they apply to the Jennings Randolph Lake Project; and

"3.8 To recognize that the District and other Federal Agencies have the right and responsibility to enforce, within the boundaries of the Jennings Randolph Lake Project, all applicable Federal laws, rules and regulations so as to provide the public with safe and healthful recreational opportunities and to provide protection to all federal property within the project.

"Article IV—Mutual Cooperation

"4.1 Pursuant to the aims and purposes of this Compact, the State of Maryland, the State of West Virginia and the District mutually agree that representatives of their natural resource management and enforcement agencies will cooperate to further the purposes of this Compact. This cooperation includes, but is not limited to, the following:

"4.2 Meeting jointly at least once annually, and providing for other meetings as deemed necessary for discussion of matters relating to the management of natural resources and visitor use on lands and waters within the Jennings Randolph Lake Project;

"4.3 Evaluating natural resources and boating, to develop natural resources and boating management plans and to initiate and carry out management programs;

"4.4 Encouraging the dissemination of joint publications, press releases or other public information and the interchange between parties of all pertinent agency policies and objectives for the use and perpetuation of natural resources of the Jennings Randolph Lake Project; and

"4.5 Entering into working arrangements as occasion demands for the use of lands, waters, construction and use of buildings and other facilities at the project.

"Article V—General Provisions

"5.1 Each and every provision of this Compact is subject to the laws of the States of Maryland and West Virginia and the laws of the United States, and the delegated authority in each instance.

"5.2 The enforcement and applicability of natural resources and boating laws and regulations referenced in this Compact shall be limited to the lands and waters of the Jennings Randolph Lake Project, including but not limited to the prevailing reciprocal fishing laws and regulations between the States of Maryland and West Virginia.

"5.3 Nothing in this Compact shall be construed as obligating any party hereto to the expenditure of funds or the future payment of money in excess of appropriations authorized by law.

"5.4 The provisions of this Compact shall be severable, and if any phrase, clause, sentence or provision of the Jennings Randolph Lake Project Compact is declared to be unconstitutional or inapplicable to any signatory party or agency of any party, the constitutionality and applicability of the Compact shall not be otherwise affected as to any provision, party, or agency. It is the legislative intent that the provisions of the Compact be reasonably and liberally construed to effectuate the stated purposes of the Compact.

"5.5 No member of or delegate to Congress, or signatory shall be admitted to any share or part of this Compact, or to any benefit that may arise therefrom; but this provision shall not be construed to extend to this agreement if made with a corporation for its general benefit.

"5.6 When this Compact has been ratified by the legislature of each respective State, when the Governor of West Virginia and the Governor of Maryland have executed this Compact on behalf of their respective States and have caused a verified copy thereof to be filed with the Secretary of State of each respective State, when the Baltimore District of the U.S. Army Corps of Engineers has executed its concurrence with this Compact, and when this Compact has been consented to by the Congress of the United States, then this Compact shall become operative and effective.

"5.7 Either State may, by legislative act, after one year's written notice to the other, withdraw from this Compact. The U.S. Army Corps of Engineers may withdraw its concurrence with this Compact upon one year's written notice from the Baltimore District Engineer to the Governor of each State.

"5.8 This Compact may be amended from time to time. Each proposed amendment shall be presented in resolution form to the Governor of each State and the Baltimore District Engineer of the U.S. Army Corps of Engineers. An amendment to this Compact shall become effective only after it has been ratified by the legislatures of both signatory States and concurred in by the U.S. Army Corps of Engineers, Baltimore District. Amendments shall become effective thirty days after the date of the last concurrence or ratification.".

SEC. 2. The right to alter, amend or repeal this joint resolution is hereby expressly reserved. The consent granted by this joint resolution shall not be construed as impairing or in any manner affecting any right or jurisdiction of the United States in and over the region which forms the subject of the compact.

MESSAGES FROM THE HOUSE RECEIVED DURING RECESS

Under the authority of the order of the Senate of January 5, 1993, the Secretary of the Senate, on October 11, 1994, during the recess of the Senate, received a message from the House of Representatives announcing that the Speaker has signed the following enrolled bills:

S. 922. An act to provide that a State court may not modify an order of another State court requiring the payment of child support unless the recipient of child support payments resides in the State in which the modification is sought or consents to the seeking of the modification in that court.

S. 1225. An act to authorize and encourage the President to conclude an agreement with Mexico to establish a United States-Mexico Border Health Commission.

S. 2060. An act to amend the Small Business Act.

S. 2475. An act to authorize assistance to promote the peaceful resolution of conflicts in Africa.

S. 2500. An act to enable producers and feeders of sheep and importer of sheep and sheep products to develop, finance, and carry out a nationally coordinated program for sheep and sheep product promotion, research, and information, and for other purposes.

Under the authority of the order of the Senate of January 5, 1993, the enrolled bills were signed on October 11, 1994, during the recess of the Senate by the President pro tempore (Mr. BYRD).

Under the authority of the order of the Senate of January 5, 1993, the Secretary of the Senate, on October 12, 1994, during the recess of the Senate, received a message from the house of Representatives announcing that the Speaker has signed the following enrolled bills and joint resolutions:

S. 340. An act to amend the Federal Food, Drug, and Cosmetic Act to clarify the application of the act with respect to alternate uses of new animal drugs and new drugs intended for human use, and for other purposes.

S. 455. An act to amend title 31, United States Code, to increase Federal payments to units of general local government for entitlement lands, and for other purposes.

S. 2395. An act to designate the United States Federal Building and Courthouse in Detroit, Michigan, as the "Theodore Levin

Federal Building and Courthouse," and for other purposes.

S. 2407. An act to make improvements in the operation and administration of the Federal courts, and for other purposes.

S. 2466. An act to amend the Energy Policy and Conservation Act to manage the Strategic Petroleum Reserve more effectively and for other purposes.

S. 2534. An act to revise and improve the process for disposing of buildings and property at military installations under the base closure laws.

H.R. 4217. An act to reform the Federal crop instance program, and for other purposes.

H.R. 4361. An act to amend title 5, United States Code, to provide that an employee of the Federal government may use sick leave to attend to the medical needs of a family member; to modify the voluntary leave transfer program with respect to employees who are members of the same family; and for other purposes.

H.R. 5053. An act to expand eligibility for the wetlands reserve program to lands covered by expiring agreements under the Water Bank Act.

H.R. 5155. An act to authorize the transfer of naval vessels to certain foreign countries.

S.J. Res. 90. Joint resolution to recognize the achievements of radio amateurs, and to establish support for such amateurs as national policy.

S.J. Res. 220. Joint resolution to designate October 19, 1994, as "National Mammography Day".

S.J. Res. 229. Joint resolution regarding United States policy toward Haiti.

Under the authority of the order of the Senate of January 5, 1993, the following enrolled bills and joint resolutions were signed on October 12, 1994, during the recess of the Senate by the President pro tempore (Mr. BYRD):

S. 455. An act to amend title 31, United States Code, to increase Federal payments to units of general local government for entitlement lands, and for other purposes.

S. 2466. An act to amend the Energy Policy and Conservation Act to manage the Strategic Petroleum Reserve more effectively and for other purposes.

H.R. 4217. An act to reform the Federal crop insurance program and for other purposes.

Under the authority of the order of the Senate of January 5, 1993, the following enrolled bills were signed on October 13, 1994, during the recess of the Senate by the President pro tempore (Mr. BYRD):

S. 340. An act to amend the Federal Food, Drug, and Cosmetic Act to clarify the application of the Act with respect to alternate uses of new animal drugs and new drugs intended for human use, and for other purposes.

S. 2395. An act to designate the United States Federal Building and Courthouse in Detroit, Michigan, as the "Theodore Levin Federal Building and Courthouse", and for other purposes.

S. 2407. An act to make improvements in the operation and administration of the Federal courts, and for other purposes.

S. 2534. An act to revise and improve the process for disposing of buildings and property at military installations under the base closure laws.

H.R. 4361. An act to amend title 5, United States Code, to provide that an employee of the Federal Government may use sick leave to attend to the medical needs of a family member; to modify the voluntary leave transfer program with respect to employees who are members of the same family; and for other purposes.

H.R. 5053. An act to expand eligibility for the wetlands reserve program to lands covered by expiring agreements under the Water Bank Act.

H.R. 5155. An act to authorize the transfer of naval vessels to certain foreign countries.

S.J. Res. 90. Joint resolution to recognize the achievements of radio amateurs, and to establish support for such amateurs as national policy.

S.J. Res. 220. Joint resolution to designate October 19, 1994, as "National Mammography Day."

S.J. Res. 229. Joint resolution regarding United States policy toward Haiti.

Under the authority of the order of the Senate of January 5, 1993, the Secretary of the Senate, on October 17, 1994, during the recess of the Senate, received a message from the House of Representatives announcing that the Speaker has signed the following enrolled bills and joint resolutions:

S. 528. An act to provide for the transfer of certain U.S. Forest Service lands located in Lincoln County, Montana, to Lincoln County in the State of Montana.

S. 720. An act to clean up open dumps on Indian lands, and for other purposes.

S. 784. An act to amend the Federal Food, Drug, and Cosmetic Act to establish standards with respect to dietary supplements, and for other purposes.

S. 1312. An act to amend the Employee Retirement Income Security Act of 1974 in order to provide for the availability of remedies for certain former pension plan participants and beneficiaries.

S. 1457. An act to amend the Aleutian and Pribilof Restitution Act to increase authorization for appropriation to compensate Aleut villages for church property lost, damaged, or destroyed during World War II.

S. 1927. An act to increase the rates of compensation for veterans with service-connected disabilities and the rates of dependency and indemnity compensation for the survivors of certain disabled veterans.

S. 2073. An act to designate the United States courthouse that is scheduled to be constructed in Concord, New Hampshire, as the "Warren B. Rudman United States Courthouse", and for other purposes.

S. 2372. An act to reauthorize for three years the Commission on Civil Rights, and for other purposes.

H.R. 6. An act to extend for six years the authorizations of appropriations for the programs under the Elementary and Secondary Education Act of 1965 and for other purposes.

H.R. 512. An act to amend chapter 87 of title 5, United States Code, to provide that group life insurance benefits under such chapter may, upon application, be paid out to an insured individual who is terminally ill, and for other purposes.

H.R. 783. An act to amend title III of the Immigration and Nationality Act to make changes in the laws relating to nationality and naturalization.

H.R. 808. An act for the relief of James B. Stanley.

H.R. 2056. An act to designate the Federal building located at 600 Princess Anne Street in Fredericksburg, Virginia as the "Samuel E. Perry Postal Building."

H.R. 2135. An act to provide for a National Native American Veterans' Memorial.

H.R. 2266. An act for the relief of Orlando Wayne Naraysingh.

H.R. 2294. An act to designate the Federal building in Wichita Falls, Texas, which is currently known as the Main Post Office, as the "Graham B. Purcell, Jr., Post Office and Federal Building."

H.R. 2411. An act for the relief of Leteane Clement Monatsi.

H.R. 2440. An act to amend the Independent Safety Board Act of 1974 to authorize appropriations for fiscal years 1994, 1995, and 1996, and for other purposes.

H.R. 2970. An act to authorize the Office of Special Counsel, and for other purposes.

H.R. 4192. An act to designate the United States Post Office located at 100 Veterans Drive in Saint Thomas, Virgin Islands, as the "Arturo R. Watlington, Sr. United States Post Office."

H.R. 4535. An act to amend the Securities Exchange Act of 1934 with respect to the extension of unlisted trading privileges for corporate securities, and for other purposes.

H.R. 4833. An act to reform the management of Indian Trust Funds, and for other purposes.

H.R. 4842. An act to specify the terms of contracts entered into by the United States and Indian tribal organizations under the Indian Self-Determination and Education Assistance Act, and for other purposes.

H.R. 4896. An act to grant the consent of the Congress to the Kansas and Missouri Metropolitan Culture District Compact.

H.R. 4922. An act to amend title 18, United States Code, to make clear a telecommunications carrier's duty to cooperate in the interception of communications for law enforcement purposes, and for other purposes.

H.R. 4924. An act to assist in the conservation of rhinoceros and tigers by supporting and providing financial resources for the conservation programs of nations whose activities directly or indirectly affect rhinoceros and tiger populations, and of the CITES Secretariat.

H.R. 5116. An act to amend title II of the United States Code.

S.J. Res. 227. Joint resolution to approve the location of a Thomas Paine Memorial.

H.J. Res. 425. Joint resolution providing for the convening of the First Session of the One Hundred Fourth Congress.

Under the authority of the order of the Senate of January 5, 1993, the enrolled bills and joint resolutions were signed on October 17, 1994, during the recess of the Senate by the President pro tempore (Mr. BYRD).

Under the authority of the order of the Senate of January 5, 1993, the Secretary of the Senate, on October 25, 1994, during the recess of the Senate, received a message from the House of Representatives announcing that the Speaker has signed the following enrolled bills and joint resolutions:

S. 21. An act to designate certain lands in the California Desert as wilderness, to establish Death Valley, Joshua Tree, and Mojave National Parks, and for other purposes.

S. 1146. An act to provide for the settlement of the water rights claims of the Yavapai-Prescott Indian Tribe in Yavapai County, Arizona, and for other purposes.

S. 1614. An act to amend the Child Nutrition Act of 1966 and the National Lunch Act to promote healthy eating habits for children and to extend certain authorities contained in such Acts through fiscal year 1998, and for other purposes.

H.R. 1348. An act to establish the Quinebaug and Shetucket Rivers Valley National Heritage Corridor in the State of Connecticut, and for other purposes.

H.R. 3050. An act to expand the boundaries of the Red Rock Canyon National Conservation Area.

H.R. 3059. An act to establish a National Maritime Heritage Program to make grants available for educational programs and the restoration of America's cultural resources for the purpose of preserving America's endangered maritime heritage.

H.R. 3313. An act to amend title 38, United States Code, to improve health care services of the Department of Veterans Affairs relating to women veterans, to extend and expand authority for the Secretary of Veterans Affairs to provide priority health care to veterans who were exposed to ionizing radiation or to Agent Orange, to expand the scope of services that may be provided to veterans through Vet Centers, and for other purposes.

H.R. 3499. An act to amend the Defense Department Overseas Teachers Pay and Personnel Practices Act.

H.R. 3678. An act to authorize the Secretary of the Interior to negotiate agreements for the use of Outer Continental Shelf sand, gravel, and shell resources.

H.R. 3984. An act to designate the United States post office located at 212 Coleman Avenue in Waveland, Mississippi, as the "John Longo, Jr. Post Office."

H.R. 4180. An act to prohibit the withdrawal of acknowledgement or recognition of an Indian tribe or Alaska Native group or of the leaders of an Indian tribe or Alaska Native group, absent an act of Congress.

H.R. 4193. An act to designate the United States Post Office located at 100 Vester Gade, in Cruz Bay, Saint John, Virgin Islands, as the "Ubaldina Simnmons United States Post Office."

H.R. 4196. An act to ensure that all timber-dependent communities qualify for loans and grants from Rural Development Administration.

H.R. 4452. An act to designate the Post Office building at 115 West Chester in Ruleville, Mississippi, as the "Fannie Lou Hamer United States Post Office."

H.R. 4455. An act to authorize the Export-Import Bank of the United States to provide financing for the export of nonlethal defense articles and defense services the primary end use of which will be for civilian purposes.

H.R. 4497. An act to award a congressional gold medal to Rabbi Menachem Mendel Schneerson.

H.R. 4551. An act to designate the Post Office building located at 301 West Lexington in Independence, Missouri, as the "William J. Randall Post Office."

H.R. 4571. An act to designate the United States post office located at 103-104 Estate Richmond in Saint Croix, Virgin Islands, as the "Wilbert Armstrong United States Post Office."

H.R. 4595. An act to designate the building located at 4021 Laclede in St. Louis, Missouri, for the period of time during which it houses operations of the United States Postal Service, as the "Marian Oldham Post Office."

H.R. 4598. An act to direct the Secretary of the Interior to make technical corrections to maps relating to the Coastal Barrier Resources System.

H.R. 4709. An act to make certain technical corrections, and for other purposes.

H.R. 4757. An act to provide for the settlement of the claims of the Confederated Tribes of the Colville Reservation concerning their contribution to the production of hydropower by the Grand Coulee Dam, and for other purposes.

H.R. 4777. An act to make technical improvements in the United States Code by amending provisions to reflect the current names of congressional committees.

H.R. 4778. An act to codify without substantive change recent laws related to transportation and to improve the United States Code.

H.R. 4781. An act to facilitate obtaining foreign-located antitrust evidence by authorizing the Attorney General of the United States and the Federal Trade Commission to provide, in accordance with antitrust mutual assistance agreements, antitrust evidence to foreign antitrust authorities on a reciprocal basis; and for other purposes.

H.R. 4814. An act to grant the consent of the Congress to amendments to the Central Midwest Interstate Low-Level Radioactive Waste Compact.

H.R. 4867. An act to authorize appropriations for high-speed rail transportation, and for other purposes.

H.R. 4967. An act to designate the Federal building and United States courthouse in Detroit, Michigan, as the "Theodore Levin Federal Building and United States Courthouse."

H.R. 5034. An act to make certain technical amendments relating to the State Department Basic Authorities Act of 1956, the United States Information and Educational Exchange Act of 1948, and other provisions of law.

H.R. 5084. An act to amend title 13, United States Code, to improve the accuracy of census address lists, and for other purposes.

H.R. 5102. An act to amend title 18, United States Code, with respect to certain crimes relating to Congressional medals of honor.

H.R. 5161. An act to amend the Omnibus Budget Reconciliation Act of 1993 to permit the prompt sharing of timber sale receipts of the Forest Service and the Bureau of Land Management.

H.R. 5176. An act to amend the Federal Water Pollution Control Act relating to San Diego ocean discharge and waste water reclamation.

H.R. 5200. An act to resolve the 107th meridian boundary dispute between the Crow Indian Tribe and the United States.

H.R. 5220 act to provide for the acceptance by the Secretary of Education of applications submitted by the local educational agency serving the Window Rock Unified School District, Window Rock, Arizona, under section 3 of the Act of September 30, 1950 (Public Law 874, 81st Congress) for fiscal years 1994 and 1995.

H.R. 5244. An act to amend title 38, United States Code, to revise and improve veterans' benefits programs, and for other purposes.

H.R. 5246. An act to amend the Foreign Assistance Act of 1961 to make certain corrections relating to international narcotics control activities, and for other purposes.

H.R. 5252. An act to amend the Social Security Act and related Acts to make miscellaneous and technical amendments, and for other purposes.

H.J. Res. 271. Joint resolution designating November of each year as "National American Indian Heritage Month."

H.J. Res. 326. Joint resolution designating January 16, 1995, as "National Good Teen Day."

Under the authority of the order of the Senate of January 5, 1993, the Secretary of the Senate, on November 30, 1994, during the recess of the Senate, received a message from the House of Representatives announcing that the Speaker has signed the following enrolled joint resolution:

H.J. Res 390. Joint resolution designating September 17, 1994, as "Constitution Day."

Under the authority of the order of the Senate of January 5, 1993, the following enrolled joint resolution was signed on October 31, 1994, during the recess of the Senate by the President pro tempore (Mr. BYRD):

H.J. Res. 390. Joint resolution designating September 17, 1994, as "Constitution Day."

Under the authority of the order of the Senate of January 5, 1993, the Secretary of the Senate, on November 30, 1994, during the recess of the Senate, received a message from the House of Representatives announcing that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 5110. An act to approve and implement the trade agreements concluded in the Uruguay Round of multilateral trade negotiations.

The message also announced that pursuant to the provisions of section 904(b) of Public Law 103-236, the Speaker appoints the following Member to the Commission on Protecting and Reducing Government Secrecy on the part of the House: Mr. HAMILTON.

The message further announced that pursuant to the provisions of section 902(a) of Public Law 103-359, the Speaker appoints to the Commission on the Roles and Capabilities of the United States Intelligence Community the following members on the part of the House: Mr. DICKS and from private life, Mr. TONY COEHLO of Alexandria, VA.

The message also announced that pursuant to the provisions of section 604 of Public Law 103-394, and the order of the House of Friday October 7, 1994, authorizing the Speaker and the Minority Leader to accept resignations and to make appointments authorized by law or by the House, the Speaker on November 17, 1994, did appoint the following person from private life to the National Bankruptcy Review Commission on the part of the House: Mr. John A. Gose of Seattle, WA.

The message further announced that pursuant to the provisions of section 5205(a)(1)(C) of Public Law 100-418, and the order of the House of Friday, October 7, 1994, authorizing the Speaker and the Minority Leader to accept resignations and to make appointments authorized by law or by the House, the Speaker and the Minority Leader on November 17, 1994, did jointly appoint the following person from private life as a member of the Competitiveness Policy Council on the part of the House to fill the existing vacancy thereon: Mr. Donald V. Fites of Peoria, IL.

The message also announced that pursuant to the provisions of section

4(b) of Public Law 94–201, (20 U.S.C. 2103(b)), and the order of the House of Friday, October 7, 1994, authorizing the Speaker and the Minority Leader to accept resignations and to make appointments authorized by law or by the House, the Speaker on October 11, 1994, did appoint to the Board of Trustees of the American Folklife Center in the Library of Congress the following member from private life on the part of the House to fill the existing vacancy thereon: Mr. William L. Kinney, Jr. of Bennettsville, SC, for a 6-year term.

The message further announced that pursuant to the provisions of section 703 of the Social Security Act (42 U.S.C. 903) as amended by section 103 of Public Law 103–296, and the order of the House of Friday, October 7, 1994, authorizing the Speaker and the Minority Leader to accept resignations and to make appointments authorized by law or by the House, the Speaker on November 17, 1994, did appoint to the Social Security Advisory Board the following members on the part of the House from private life: Ms. Martha Keys of Arlington, VA, to a 5-year term; and Mr. Arthur L. (Pete) Singleton of Dunnsville, VA, to a 4-year term.

MESSAGES FROM THE HOUSE

At 12:06 a.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 5292. An act to amend the Defense Base Closure and Realignment Act of 1990 to extend the deadline for the submission of nominations for the Defense Base Closure and Realignment Commission.

The message also announced that the House has agreed to the following resolution, in which it requests the concurrence of the Senate:

H. Res. 587. Resolution expressing profound sorrow upon the death of the Honorable Dean A. Gallo, a Representative from the State of New Jersey.

ENROLLED BILLS AND JOINT RESOLUTIONS PRESENTED

The Secretary of the Senate reported that she had presented to the President of the United States, the following enrolled bills and joint resolutions:

On October 6, 1994:

S. 316. An act to establish the Saguaro National Park in the State of Arizona, and for other purposes.

S. 1233. An act to resolve the status of certain lands in Arizona that are subject to a claim as a grant of public lands for railroad purposes, and for other purposes.

On October 7, 1994:

S. 2406. An act to amend title 17, United States Code, relating to the definition of a local service area of a primary transmitter, and for other purposes.

S. 455. An act to amend title 31, United States Code, to increase Federal payments to units of general local government for entitlement lands, and for other purposes.

S. 922. An act to provide that a State court may not modify an order of another State court requiring the payment of child support unless the recipient of child support payments resides in the State in which the modification is sought or consents to the seeking of the modification in that court.

S. 1225. An act to authorize and encourage the President to conclude an agreement with Mexico to establish a United States-Mexico Border Health Commission.

S. 2060. An act to amend the Small Business Act and the Small Business Investment Act of 1958, and for other purposes.

S. 2466. An act to amend the Energy Policy and Conservation Act to manage the Strategic Petroleum Reserve more effectively, and for other purposes.

S. 2475. An act to authorize assistance to promote the peaceful resolution of conflicts in Africa.

S. 2500. An act to enable producers and feeders of sheep and importers of sheep and sheep products to develop, finance, and carry out a nationally coordinated program for sheep and sheep product promotion, research, and information, and for other purposes.

On October 17, 1994:

S. 340. An act to amend the Federal Food, Drug, and Cosmetic Act to clarify the application of the act with respect to alternate uses of new animal drugs and new drugs intended for human use, and for other purposes.

S. 2407. An act to make improvements in the operation and administration of the Federal courts, and for other purposes.

S. 2534. An act to revise and improve the process for disposing of buildings and property at military installations under the base closure laws.

S.J. Res. 90. Joint resolution to recognize the achievements of radio amateurs, and to establish support for such amateurs as national policy.

S.J. Res. 229. Joint resolution regarding United States policy toward Haiti.

S.J. Res. 220. Joint resolution to designate October 19, 1994, as "National Mammography Day."

On October 18, 1994:

S. 528. An act to provide for the transfer of certain United States Forest Service lands located in Lincoln County in the State of Montana.

S. 720. An act to clean up open dumps on Indian lands, and for other purposes.

S. 784. An act to amend the Federal Food, Drug, and Cosmetic Act to establish standards with respect to dietary supplements, and for other purposes.

S. 1312. An act to amend the Employee Retirement Income Security Act of 1974 in order to provide for the availability of remedies for certain former pension plan participants and beneficiaries.

S. 1927. An act to amend title 38, United States Code, to provide a cost-of-living adjustment in the rates of disability compensation for veterans with service-connected disabilities and the rates of dependency and indemnity compensation for survivors of such veterans, to revise and improve veterans' benefits programs, and for other purposes.

S. 2073. An act to designate the Warren B. Rudman United States Courthouse, the Jamie L. Whitten Federal Building, and the William H. Natcher Federal Building and United States Courthouse.

S. 2372. An act to amend the United States Commission on Civil Rights Act of 1983.

S.J. Res. 227. Joint resolution approving the location of a Thomas Paine Memorial and a World War II Memorial in the Nation's Capital.

On October 19, 1994:

S. 2395. An act to designate the United States Courthouse in Detroit, Michigan, as the "Theodore Levin Courthouse," and for other purposes.

On October 25, 1994:

S. 21. An act to designate certain lands in the California Desert as wilderness, to establish the Death Valley and Joshua Tree National Parks, to establish the Mojave National Preserve, and for other purposes.

S. 1146. An act to provide for the settlement of the water rights claims of the Yavapai-Prescott Indian Tribe in Yavapai County, Arizona, and for other purposes.

S. 1614. An act to amend the Child Nutrition Act of 1966 and the National School Lunch Act to promote healthy eating habits for children and to extend certain authorities contained in such Acts through fiscal year 1998, and for other purposes.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC–3425. A communication from the Deputy Secretary of Defense, transmitting, pursuant to law, an interim report of the Defense Equal Opportunity Task Force on Discrimination and Sexual Harassment, dated September 1994; to the Committee on Armed Services.

EC–3426. A communication from the President of the United States, transmitting, pursuant to law, a report relative to the national emergency with respect to Haiti; to the Committee on Banking, Housing and Urban Affairs.

EC–3427. A communication from the President of the United States, transmitting, pursuant to law, a report relative to the sanctions against Haiti; to the Committee on Banking, Housing and Urban Affairs.

EC–3428. A communication from the Chief Financial Officer of the Export-Import Bank, transmitting, pursuant to law, a report in compliance with the Inspector General Act for fiscal year 1993; to the Committee on Banking, Housing and Urban Affairs.

EC–3429. A communication from the Secretary of Housing and Urban Development, transmitting, pursuant to law, a report entitled "Report to Congress on Elderly Families, Families with Children and Disabled Families Served by Federal Housing Programs"; to the Committee on Banking, Housing and Urban Affairs.

EC–3430. A communication from the Acting Director of the Office of Management and Budget, Executive Office of the President, transmitting, pursuant to law, a report relative to direct spending and receipts legislation within five days of enactment; to the Committee on the Budget.

EC–3431. A communication from the Acting Director of the Office of Management and Budget, Executive Office of the President, transmitting, pursuant to law, a report on direct spending or receipts legislation within five days of enactment; to the Committee on the Budget.

EC–3432. A communication from the Acting Director of the Office of Management and Budget, Executive Office of the President,

transmitting, pursuant to law, a report on direct spending or receipts legislation within five days of enactment; to the Committee on the Budget.

EC–3433. A communication from the Administrator of the Department of Transportation, transmitting, pursuant to law, the Department's annual report on civil aviation security from calendar year 1993; to the Committee on Commerce, Science and Transportation.

EC–3434. A communication from the Administrator of the Department of Transportation, transmitting, pursuant to law, the Department's annual report relative to civil aviation security for calendar year 1992; to the Committee on Commerce, Science and Transportation.

EC–3435. A communication from the Acting Assistant Secretary of the Army (Civil Works), Department of the Navy, transmitting, pursuant to law, a report relative to local cooperation agreements; to the Committee on Environment and Public Works.

EC–3436. A communication from the Executive Director of the National Commission on International Transportation, transmitting, pursuant to law, a report relative to national intermodal transportation; to the Committee on Environment and Public Works.

EC–3437. A communication from the President of the United States, transmitting, consistent with the Authorization for Use of Military Force Against Iraq Resolution, a report on the status of efforts to obtain Iraq's compliance with the resolutions adopted by the U.N. Security Council (received in the Senate on November 1, 1994); to the Committee on Foreign Relations.

EC–3438. A message from the President of the United States, transmitting, pursuant to law, a report relative to the national emergency with respect to the proliferation of weapons of mass destruction; to the Committee on Banking, Housing, and Urban Affairs.

EC–3439. A communication from the President of the United States, transmitting, pursuant to law, a report relative to the national emergency with respect to Iran; to the Committee on Banking, Housing, and Urban Affairs.

EC–3440. A communication from the President of the United States, transmitting, pursuant to law, a report of deferrals of budget authority dated October 18, 1994; pursuant to the order of January 30, 1975, as modified by the order of April 11, 1986, referred jointly to the Committee on Appropriations, the Committee on the Budget, the Committee on Finance, and the Committee on Foreign Relations.

EC–3441. A communication from the Under Secretary of Defense for Acquisition and Technology, transmitting, pursuant to law, selected acquisition reports for the quarter ending September 30, 1994; to the Committee on Armed Services.

EC–3442. A communication from the Secretary of the Senate transmitting, pursuant to law, a full and complete statement of the receipts and expenditures of the Senate showing in detail the items of expense under proper appropriations, the aggregate thereof, and exhibiting the exact condition of all public moneys received, paid out, and remaining in her possession from April 1, 1994 through September 30, 1994; ordered to lie on the table.

EC–3443. A communication from the Director of the Office of Management and Budget, Executive Office of the President, transmitting, pursuant to law, the cumulative report on rescissions and defferals dated November 9, 1994; pursuant to the order of January 30, 1975, as modified by the order of April 11, 1986, referred jointly to the Committee on Appropriations, the Committee on the Budget, the Committee on Finance and the Committee on Foreign Relations.

EC–3444. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report relative to revised statistical information regarding rescissions; pursuant to the order of January 30, 1975, as modified by the order of April 11, 1986, referred jointly to the Committee on Appropriations and the Committee on the Budget.

EC–3445. A communication from the Director of the Office of Civilian Radioactive Waste Management, Department of Energy, transmitting, pursuant to law, the annual report of the Office for fiscal year 1993; pursuant to law, referred jointly to the Committee on Energy and Natural Resources and the Committee on Environment and Public Works.

EC–3446. A communication from the Director of Corporate Financial Audits, General Accounting Office, transmitting, pursuant to law, a report relative to the cost of money rate; to the Committee on Agriculture, Nutrition and Forestry.

EC–3447. A communication from the Under Secretary of Defense, transmitting, pursuant to law, a report of a violation of the Antideficiency Act, case number 94-06; to the Committee on Armed Services.

EC–3448. A communication from the Under Secretary of Defense, transmitting, pursuant to law, notice of funds transfers; to the Committee on Armed Services.

EC–3449. A communication from the Under Secretary of Defense, transmitting, pursuant to law, a report relative to the obligation of funds for the intertheater airlift programs; to the Committee on Armed Services.

EC–3450. A communication from the Under Secretary of Defense, transmitting, pursuant to law, a report relative to space launch vehicles; to the Committee on Armed Services.

EC–3451. A communication from the Deputy and Acting Chief Executive Officer of the Resolution Trust Corporation, transmitting, pursuant to law, the Corporation's Semiannual Comprehensive Litigation Report for the six month period ending September 30, 1994; to the Committee on Banking, Housing and Urban Affairs.

EC–3452. A communication from the Associate Director, Government Business Operations Issues, General Accounting Office, transmitting, pursuant to law, a report relative to the RTC's Affordable Housing Disposition Program; to the Committee on Banking, Housing and Urban Affairs.

EC–3453. A communication from the Secretary of Housing and Urban Development, transmitting, pursuant to law, a report entitled "Domestic and International Housing Technology Research"; to the Committee on Banking, Housing and Urban Affairs.

EC–3454. A communication from the President of the United States, transmitting, pursuant to law, a notice of the expansion of the scope of the national emergency with respect to the actions and policies of the Governments of Serbia and Montenegro; to the Committee on Banking, Housing and Urban Affairs.

EC–3455. A communication from the Secretary of Housing and Urban Development, transmitting, pursuant to law, a report on the state of fair housing; to the Committee on Banking, Housing and Urban Affairs.

EC–3456. A communication from the President of the United States, transmitting, pursuant to law, a notice of the continuation of the national emergency with respect to Iraq; to the Committee on Banking, Housing and Urban Affairs.

EC–3457. A communication from the Executive Director of the Thrift Depositor Protection Oversight Board and the Deputy and Acting Chief Executive Officer of the Resolution Trust Corporation, transmitting, pursuant to law, a semiannual report of the activities of the RTC the Federal Deposit Insurance Corporation and the Thrift Depositor Protection Oversight Board; to the Committee on Banking, Housing and Urban Affairs.

EC–3458. A communication from the Secretary of the Treasury, transmitting, pursuant to law, a report relative to the reduction of risk in financial markets; to the Committee on Banking, Housing and Urban Affairs.

EC–3459. A communication from the Deputy and Acting Chief Executive Officer of the Resolution Trust Corporation, transmitting, pursuant to law, the Corporation's semiannual report relative to the Affordable Housing Disposition Program for the period from January 1, 1994 through June 30, 1994; to the Committee on Banking, Housing and Urban Affairs.

EC–3460. A communication from the Secretary of Housing and Urban Development, transmitting, pursuant to law, a report relative to the Public Housing Lead-Based Paint Demonstration; to the Committee on Banking, Housing and Urban Affairs.

EC–3461. A communication from the Deputy and Acting Chief Executive Officer of the Resolution Trust Corporation, transmitting, pursuant to law, a report relative to professional conduct investigations; to the Committee on Banking, Housing and Urban Affairs.

EC–3462. A communication from the Administrator of the Energy Information Administration, Department of Energy, transmitting, pursuant to law, a report relative to the emissions of greenhouse gasses in the United States; to the Committee on Energy and Natural Resources.

EC–3463. A communication from the Administrator of the Department of Transportation, transmitting, pursuant to law, a status report on the implementation of the Intermodal Surface Transportation Efficiency Act; to the Committee on Environment and Public Works.

EC–3464. A communication from the Acting Assistant Secretary of the Army (Civil Works), transmitting, pursuant to law, a report relative to projects which have been authorized, but for which no funds have been obligated; to the Committee on Environment and Public Works.

EC–3465. A communication from the Secretary of Transportation, transmitting, pursuant to law, a report entitled "Preservation of Transportation Corridors"; to the Committee on Environment and Public Works.

EC–3467. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, a report relative to demonstration activities; to the Committee on Finance.

EC–3468. A communication from the Assistant Secretary of State (Legislative Affairs), transmitting, pursuant to law, notice of a certification relative to the United Nations agency or U.N. affiliated agencies for fiscal year 1995; to the Committee on Foreign Relations.

EC–3469. A communication from the Secretary of Energy, transmitting, pursuant to law, a report relative to Exxon and Stripper

Well overcharge funds as of June 30, 1994; to the Committee on Energy and Natural Resources.

EC–3470. A communication from the Deputy Associate Director for Compliance, Department of the Interior, transmitting, pursuant to law, notice of refunds of offshore lease revenues where a refund or recoupment is appropriate; to the Committee on Energy and Natural Resources.

EC–3471. A communication from the Deputy Associate Director for Compliance, Department of the Interior, transmitting, pursuant to law, notice of refunds of offshore lease revenues where a refund or recoupment is appropriate; to the Committee on Energy and Natural Resources.

EC–3472. A communication from the Secretary of Energy, transmitting, pursuant to law, a report relative to the use of light duty alternative fuel vehicles in Federal fleets; to the Committee on Energy and Natural Resources.

EC–3473. A communication from the Assistant Secretary for Water and Science, Department of the Interior, transmitting, pursuant to law, a report relative to the High Plains States Groundwater Demonstration Program; to the Committee on Energy and Natural Resources.

EC–3474. A communication from the Deputy Associate Director for Compliance, Department of the Interior, transmitting, pursuant to law, a report relative to refunds of offshore lease revenues where a refund or recoupment is appropriate; to the Committee on the Interior.

EC–3475. A communication from the Secretary of the Interior, the Secretary of Energy and the Director of the National Science Foundation, transmitting, pursuant to law, the annual report of the Continental Scientific Drilling Program; to the Committee on Energy and Natural Resources.

EC–3476. A communication from the Acting Inspector General, Department of the Interior, transmitting, pursuant to law, the report of reimbursable expenditures of Environmental Protection Agency Superfund Money, Bureau of Mines for fiscal years 1992 and 1993; to the Committee on Environment and Public Works.

EC–3477. A communication from the Acting Inspector General, Department of the Interior, transmitting, pursuant to law, the report of reimbursable expenditures of Environmental Protection Agency Superfund Money, Bureau of Reclamation for fiscal year 1993; to the Committee on Environment and Public Works.

EC–3478. A communication from the Acting Assistant Secretary of the Army (Civil Works), transmitting, pursuant to law, the report of the Third Priority Project List; to the Committee on Environment and Public Works.

EC–3479. A communication from the Administrator of the National Aeronautics and Space Administration, transmitting, pursuant to law, the report on facilities storing mixed wastes; to the Committee on Environment and Public Works.

EC–3480. A communication from the Secretary of Transportation, transmitting, pursuant to law, the report of the study of the maximum axle weight limits of public transit vehicles on the interstate system; to the Committee on Environment and Public Works.

EC–3481. A communication from the Acting Assistant Secretary of the Army (Civil Works), transmitting, a draft of proposed legislation to modify the project for flood control at Arkansas City, Kansas to authorize the Secretary of the Army to construct the project; to the Committee on Environment and Public Works.

EC–3482. A communication from the Deputy Inspector General, Department of Defense, transmitting, pursuant to law, the U.S. Army Audit Agency report of its review of Superfund financial transactions for fiscal year 1993; to the Committee on Environment and Public Works.

EC–3483. A communication from the District of Columbia Auditor, transmitting, pursuant to law, the report entitled "Review of the Alcohol and Drug Abuse Services Administration's Spending and Contractual Administrative Practices"; to the Committee on Governmental Affairs.

EC–3484. A communication from the Acting Chairman of the Nuclear Regulatory Commission, transmitting, pursuant to law, the report on the nondisclosure of Safeguards Information for the period July 1, 1994 through September 30, 1994; to the Committee on Environment and Public Works.

EC–3485. A communication from the Acting Assistant Secretary of the Army (Civil Works), transmitting, a draft of proposed legislation to modify the project for the India Point Railroad Bridge, Seekonk River, Providence, Rhode Island; to the Committee on Environment and Public Works.

EC–3486. A communication from the Secretary of Energy, transmitting, pursuant to law, notice relative to the report on Adequacy of Management Plans for the Future Generation of Spent Nuclear Fuel and High-Level Radioactive Waste; to the Committee on Environment and Public Works.

EC–3487. A communication from the Assistant Secretary of Energy (Environment, Safety and Health), transmitting, pursuant to law, the report on progress in implementing the requirements of the Comprehensive Environmental Response, Compensation, and Liability Act for fiscal year 1993; to the Committee on Environment and Public Works.

EC–3489. A communication from the Inspector General of the Environmental Protection Agency, transmitting, pursuant to law, the annual report on the Superfund program for fiscal year 1993; to the Committee on Environment and Public Works.

EC–3490. A communication from the Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report on the production, use, and consumption of Class I and II Ozone-Depleting Substances; to the Committee on Environment and Public Works.

EC–3491. A communication from the Chairman of the International Trade Commission, transmitting, pursuant to law, the report on trade between the United States and China, and the Successor States to the Former Soviet Union during the period April 1, 1994 through June 30, 1994; to the Committee on Finance.

EC–3492. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, the annual report on Child Support Enforcement; to the Committee on Finance.

EC–3493. A communication from the Secretary of Labor, transmitting, pursuant to law, the report on the expenditure and need for Worker Adjustment Assistance Training Funds for the period July 1, 1994 through September 30, 1994; to the Committee on Finance.

PETITIONS AND MEMORIALS

The following petitions and memorials were laid before the Senate and were referred or ordered to lie on the table as indicated:

POM–649. A joint resolution adopted by the Legislature of the State of California; ordered to lie on the table.

"ASSEMBLY JOINT RESOLUTION NO. 26

"Whereas, Acts of violence and harassment against medical doctors, their staff, patients of health facilities where abortions are performed, and their families, are increasing; and

"Whereas, That violence and harassment recently resulted in the shooting death of Dr. David Gunn, a medical doctor who performed abortions in the State of Florida; and

"Whereas, The death of Dr. Gunn was precipitated by picketing and harassment of him and his health facility for more than one year; and

"Whereas, Those acts of violence and harassment must meet immediate, legislative, judicial, and law enforcement response; and

"Whereas, The California Legislature condemns those who perpetrate such acts of violence and harassment; now, therefore, be it

"Resolved by the Assembly and Senate of the State of California, jointly, That the Legislature of the State of California respectfully memorializes the President and the Congress of the United States to enact the Freedom of Access to Clinic Entrances Act of 1993 to guarantee American women their fundamental right to reproductive health care; and be it further

"Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, the Speaker of the United States House of Representatives, and each Senator and Representative from California in the Congress of the United States."

POM–650. A joint resolution adopted by the Legislature of the State of California; to the Committee on Appropriations.

"SENATE JOINT RESOLUTION NO. 49

"Whereas, There is a need for creating and maintaining the capability to perform long duration space research in science and technology, and the Space Station will advance our use of the unique space environment by providing a permanent, multipurpose Earth-orbiting laboratory; and

"Whereas, Pressurized laboratory accommodations will enable experimenters to use the microgravity environment of space to expand our knowledge, develop new technologies, realize new products and processes, provide an observation point to view the Earth and the heavens, and to carry out a range of scientific and technical experiments; and

"Whereas, The Space Station will be built by an international team from Europe, Japan, Canada, Russia, and the United States, who have all planned and adjusted their space program budgets over the past few years and have made difficult choices to eliminate other activities of national or joint interest in order to maintain funding for their portions of the International Space Station; and

"Whereas, The Space Station will be a world-class laboratory in space that will serve as an intellectual magnet to inspire all Americans, especially our youth; and

"Whereas, The current Space Station program employs 9,700 people in southern California alone, 30,000 people directly, and over 100,000 people indirectly, nationwide; and

"Whereas, The Space Station will create thousands of high technology jobs that will enhance future United States competitiveness; and

"Whereas, The past and proposed military base closures in California are devastating to an economic base reeling from the recession, extremely high unemployment compared to the rest of the nation, natural disasters, and the state budget crisis; and

"Whereas, The Space Station can help maintain the California manufacturing base and all of the small subcontracting businesses and keep California at the forefront of science and technology; and

"Whereas, The International Space Station is the largest international scientific cooperative program in history that channels the Russian aerospace industry into nonmilitary pursuits and furthers commercial ties and builds on Russian space experience and expenditures; and

"Whereas, Our national expenditures on the Space Station program represent only a very small fraction of the federal budget, and the program management is improved and streamlined to reduce cost risk, saving even more money; and

"Whereas, Substantial progress in the design and fabrication of hardware warrants high confidence of program success that will propel the United States to the forefront of technological progress and commercial application of space research; now, therefore, be it

"*Resolved by the Senate and Assembly of the State of California, jointly*, That the Legislature of the State of California hereby urges the members of the congressional delegation from California to act in united support of fully funding the United States' involvement in the International Space Program and to communicate their support to the Secretary of the United States Department of Defense, to the President of the United States, and to other pertinent parties; and be it further

"*Resolved*, That the Legislature of the State of California hereby urges the boards of supervisors of all California counties, all city councils in the state, and all chambers of commerce in the state to provide their attention and support for the continued funding of the Space Station and to communicate their support to the President of the United States, the Secretary of the United States Department of Defense, the Chairperson of the United States Senate Armed Services Committee, the Chairperson of the United States House of Representatives Armed Services Committee, and the congressional delegation from California; and be it further

"*Resolved*, That the Secretary of the Senate transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, to each Senator and Representative from California in the Congress of the United States, to the boards of supervisors of all California counties, to all city councils in the state, and to all chambers of commerce in the state."

POM–651. A joint resolution adopted by the Legislature of the State of California; to the Committee on Appropriations.

"SENATE JOINT RESOLUTION NO. 5

"Whereas, The State of California and other states have incurred and are continuing to incur extensive fiscal responsibilities for health, welfare, correctional, and educational services for immigrants entering the United States as a result of federal immigration and refugee policies, as well as a lack of federal controls on undocumented noncitizens; and

"Whereas, The federal government has long mandated or otherwise sought state services for immigrants and assumed a cumulative obligation to pay for them under the Refugee Act of 1980 (Public Law 96–212), the State Legalization Impact Assistance Grants pursuant to the Immigration Reform and Control Act of 1986 (Public Law 99–603), and the Omnibus Budget Reconciliation Act of 1986 (Public Law 99–509); and

"Whereas, In the past four years, despite previous promises and commitments, the amount of federal immigration impact aid appropriated to California has been less than $200 million annually, which is well below the $2.5 billion needed to meet obligations this year; and

"Whereas, Failure by the federal government to pay the obligated immigration impact payments is likely to result in state reductions in Supplemental Security Income/State Supplementary Program (SSI/SSP) grants; elimination of the Aid to Families with Dependent Children homeless assistance program; elimination of Medi-Cal optional eligibility categories for low-income, uninsured adults and children; elimination of Medi-Cal optional benefits; reductions in hospital inpatient reimbursements, and many other consequences; and

"Whereas, In recent years federal taxes collected in California have substantially exceeded the expenditure of federal funds in the state, in some years reaching a low of 91 cents spent per dollar collected; and

"Whereas, This trend is likely to be exacerbated in the current year because of further reductions in defense expenditures and closure of defense bases, to both of which California is particularly vulnerable; now, therefore, be it

"*Resolved by the Senate and Assembly of the State of California, jointly*, That the Legislature of the State of California respectfully memorializes the President and the Congress of the United States to carry out existing federal law, including formal as well as implied commitments, by providing in the near future at least $400 million in federal funds to offset costs incurred by the state in providing health and social services to refugees and other immigrants; and be it further

"*Resolved*, That the Legislature further memorializes the President and Congress to provide at least an additional $1.7 billion for the school year cost of educating undocumented immigrants in the public schools of California; and be it further

"*Resolved*, That the Legislature further memorializes the President and the Congress to provide in the near future at least an additional $402 million dollars in federal funds for the state to cover the cost of incarcerating felons who are undocumented aliens whose presence in the United States is a federal responsibility; and be it further

"*Resolved*, That the Secretary of the Senate transmit copies of this resolution to the President and Vice President of the United States, the Speaker of the House of Representatives, and each Senator and Representative from California in the Congress of the United States."

POM–652. A joint resolution adopted by the Legislature of the State of California; to the Committee on Armed Services.

"SENATE JOINT RESOLUTION NO. 50.

"Whereas, Since the end of the cold war the United States has withdrawn the majority of its overseas forces; and

"Whereas, The ability to rapidly and efficiently airlift military personnel and equipment is vitally necessary to enable the United States to protect its global interests and to respond in crisis situations through rapid deployment; and

"Whereas, The nation's airlift forces are aging rapidly due to use during the Desert Shield/Desert Storm conflict and the humanitarian relief efforts of Somalia and Bosnia and Herzegovina; and

"Whereas, The Defense Department has declared the U.S. Air Force C–17 airlift program to be its number one priority; and

"Whereas, The C–17 is the only aircraft able to perform all of the critical military deployment missions including roll on/roll off airland, airdrop, low-altitude-parachute-extraction, and combat offload as well as transporting large-outsize cargo over intercontinental distances and landing at semi-prepared, small, austere airfields; and

"Whereas, The C–17 development program is nearly complete and eight aircraft have now entered operational service with the 437th Airlift Wing at Charleston Air Force Base in South Carolina; and

"Whereas, The Department of Defense Inspector General has declared that the recent Omnibus Settlement between the manufacturer of the C–17 airlifter and the government on all outstanding issues is reasonable and fair and in the best interests of the United States Government; and

"Whereas, The continuing production of the C–17 airlifter will provide significant economic development and employment opportunities to the beleaguered aerospace industry of the State of California; now, therefore, be it

Resolved by the Senate and Assembly of the State of California, jointly, That the Legislature of the State of California respectfully memorializes the President and the Congress of the United States to support and enact funding for the C–17 Omnibus Settlement between the United States Department of Defense and the manufacturer of the C–17 airlifter to ensure the continued production of 120 of these aircraft; and be it further

Resolved, That the Secretary of the Senate transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the United States House of Representatives, and to each Senator and Representative from California in the Congress of the United States."

POM–653. A joint resolution adopted by the Legislature of the State of California; to the Committee on Banking, Housing, and Urban Affairs.

"SENATE JOINT RESOLUTION NO. 32

"Whereas, Since the 1964 Surgeon General's Report recognizing the grave health danger of tobacco use, it has been the national policy of the United States to discourage smoking; and

"Whereas, Since the passage of Proposition 99 in 1988 by a margin of 5,607,387 to 4,032,644, the number of smokers in California has significantly decreased by over one million people, due in part to the antismoking advertising and education campaign mandated by Proposition 99; and

"Whereas, Tobacco is the number one preventable cause of death and disease in the United States; and

"Whereas, Recent health statistics indicate that Americans as a whole are smoking less, which signals the tobacco industry's decline in this country; and

"Whereas, In the developed world, cigarette consumption fell by 6.2 percent between 1986 and 1991, while in poor countries it grew by 17.4 percent; and

"Whereas, Health experts around the world believe we are at a critical juncture in whether smoking becomes a worldwide epidemic, with estimates that the number of tobacco-related deaths will increase threefold

to eight million by the year 2025, and that the progress made in curbing deaths from malnutrition and infectious diseases in lesser developed countries will be lost to deaths caused by smoking; and

"Whereas, Starting in 1985, the United States government, while discouraging smoking at home, successfully pressured Japan, Taiwan, South Korea, and Thailand into breaking their domestic tobacco monopolies and allowing the sale of American cigarettes; and

"Whereas, American tobacco companies are attempting and sometimes succeeding in undermining laws to limit cigarette advertising in Asian countries; and

"Whereas, Two years after the United States tobacco companies entered Japan, television advertising increased tenfold, and since 1988 when United States advertising was allowed in South Korea, the smoking rate for male teenagers rose from 18 percent to 30 percent, and for female teenagers from 2 percent to 9 percent; and

"Whereas, Some American tobacco companies experiencing a diminishing United States market are targeting one billion Chinese by positioning to expand investments, production, and advertisement of cigarettes; adversely influencing other cultures by manipulative marketing to men, women, and children; and creating costly tobacco-related health hazards and premature deaths; and

"Whereas, It is estimated that 50 million Chinese children will die from tobacco prematurely if trends continue; and

"Whereas, American tobacco industry activity in Asia is analogous to 19th century British merchants who persuaded their government to force China to allow the entry of dangerous and addictive opium and contributed to anti-British and anti-Western sentiment in China for decades to come; now, therefore, be it

"*Resolved by the Senate and Assembly of the State of California, jointly*, That the California Legislature, expressing its grave concern for the health of the people of developing countries, thereby urges the following courses of action:

"(a) That the United States Congress pass legislation to prohibit the United States Trade Representative, the United States Department of State, and the United States Department of Commerce, or any other agency of the United States government from actively encouraging, persuading, or compelling any foreign government to expand the marketing of tobacco products, whether it be by repealing laws restricting marketing practices, or securing agreements to introduce new measures or expand current ones. This applies to the promotion, advertisement, distribution, and taxation of tobacco products.

"(b) That the President of the United States, who has advocated for comprehensive health programs and policies to protect children in the United States, formulate responsible bilateral, multilateral, and international policies which support, rather than oppose, health laws designed to discourage tobacco use in other countries.

"(c) That American tobacco companies cease and desist from their unsavory advertising and marketing practices that are designed to encourage tobacco consumption among developing countries, and that will result in tremendous loss of human life and increased health care costs in those developing countries; and be it further

"*Resolved*, That the Secretary of the Senate transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, to each Senator and Representative from California in the Congress of the United States, to the United States Trade Representative, to the United States Department of State, and to the United States Department of Commerce."

POM–654. A joint resolution adopted by the Legislature of the State of California; to the Committee on Commerce, Science, and Transportation.

"ASSEMBLY JOINT RESOLUTION NO. 64

"Whereas, The United States is the world leader in aeronautics and the largest producer of commercial aircraft in the world, with annual sales of over $22 billion and 490,000 jobs nationwide related to the international aircraft market; and

"Whereas, Civil aircraft is the largest United States export and the aeronautics industry is now driven by civilian instead of military requirements; and

"Whereas, The United States' share in the world civil aeronautics industry has declined from 91 percent in the late 1960s to 67 percent in 1991; and

"Whereas, For the United States to continue to lead the world in aeronautics, we must lead the development of the next generation of civil aircraft; and

"Whereas, Wind tunnels are important to the civil aeronautics industry because they provide the means to test new, more efficient aircraft; and

"Whereas, Today the most advanced wind tunnel facility is in Europe; and

"Whereas, Two new United States wind tunnels are needed for development of the next generation of subsonic and transonic transportation; and

"Whereas, The National Aeronautics and Space Administration (NASA) will build a National Wind Tunnel Complex that includes construction of new, sophisticated wind tunnels; and

"Whereas, NASA/Ames Research Center, in Silicon Valley, has the most experience in wind tunnel design, construction, and operation, with 27 wind tunnels on site; and

"Whereas, NASA/Ames currently employs more than 5,000 people and manages a budget of over $700 million annually; and

"Whereas, NASA/Ames has a proven record of working closely with the Silicon Valley community and a highly successful partnership with the commercial aircraft industry; and

"Whereas, Silicon Valley is a renowned national center of high tech research and production, with a highly skilled work force and easy access to major international airports; and

"Whereas, The proposed National Wind Tunnel Complex will provide needed construction, high technology, and support jobs for an economic region still stagnant from the national recession; and

"Whereas, California has the united support of our Congressional delegation, State Assembly, State Senate, local and regional governments, business community, organized labor, and environmental organizations for the proposed National Wind Tunnel Complex: Now, therefore, be it

Resolved by the Assembly and Senate of the State of California, jointly, That the Legislature of the State of California respectfully memorializes the President and the Congress of the United States to select as the site for the proposed National Wind Tunnel Complex the NASA/Ames Research Center in Silicon Valley; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President of the United States, NASA, the United States Department of Commerce, the White House Office of Science and Technology Policy, the United States Department of Defense, and to each Senator and Representative from California in the Congress of the United States."

POM–655. A resolution adopted by the Town Board of Saugerties, New York relative to the proposed Hudson River Valley American Heritage Area; to the Committee on Energy and Natural Resources.

POM–656. A joint resolution adopted by the Legislature of the State of California; to the Committee on Energy and Natural Resources.

"SENATE JOINT RESOLUTION NO. 33

"Whereas, The United States, recognized as the leader in stimulating the pursuit of global democracy, promotes the extension of self-determination to all peoples, especially to those states and territories under its jurisdiction; and

"Whereas, Guam strives ultimately to provide the people of Guam with greater participation in deciding their destiny within the American community through recognition of their human rights and the establishment of a just political relationship between the people of Guam and the United States government; and

"Whereas, The people of Guam are citizens of the United States and should be given all the rights afforded citizens in the United States Constitution; and

"Whereas, The citizens of the Territory of Guam share the same dreams and aspirations as do other Americans and should be granted the dignity and freedom associated with greater rights of self-determination; and

"Whereas, The California Legislature supports the attempt by each territory controlled by the government of the United States to attain the political status best suited to the people of the territory; and

"Whereas, By ratifying the Guam Commonwealth Act in 1987, the citizens of the Territory of Guam have demonstrated their desire to control their own political, social, and economic future; and

"Whereas, Attaining the status of a Commonwealth of the United States would enable the citizens of the Territory of Guam to enjoy the benefits of self-government, while retaining their longstanding loyalty to the government of the United States; and

"Whereas, The Territory of Guam is one of the few territorial possessions remaining in the world today, and support for its efforts to achieve the status of a Commonwealth has been widespread, including support from a number of states, from the National Governors' Association, the National Conference of State Legislatures, the Western Legislative Conference of the Council of State Governments, and the United States Conference of Mayors: Now, therefore, be it

"*Resolved by the Senate and Assembly of the State of California, jointly*, That the California Legislature hereby expresses its support for the people of the Territory of Guam in their efforts to attain the status of a Commonwealth of the United States and a just and permanent relationship with the government of the United States; and be it further

"*Resolved*, That the Secretary of the Senate transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the United States House of Representatives, to each Senator and Representative from California in the Congress of the United States, the Governor of Guam, the Speaker of the Guam Legislature, and the Guam Congressional Delegate."

POM-657. A joint resolution adopted by the Legislature of the State of California; to the Committee on Energy and Natural Resources.

"SENATE JOINT RESOLUTION NO. 31

"Whereas, President Clinton has proposed a forest plan which contains an economic assistance package, known as the Economic Adjustment Initiative, that is intended to aid communities that are adversely impacted as a result of reduced timber harvest on United States forest lands; and

"Whereas, The economic assistance package, as proposed, would provide $1.2 billion in economic assistance over five years to workers and their families, to communities, and to business and industry for the purpose of developing infrastructure, and encouraging ecosystem investment intended to create economic diversity and growth; and

"Whereas, The Federal Administration is implementing memoranda of understanding between federal agencies and state and local governments regarding how the economic assistance package will be structured and allocated; and

"Whereas, Approximately $234 million has been either appropriated or redirected for the economic assistance package for the 1994-95 fiscal year; and

"Whereas, It is important to the State of California to marshal all available resources necessary to maximize the federal assistance available for communities that qualify for funds from the economic assistance package; now, therefore, be it

"Resolved by the Senate and Assembly of the State of California, jointly, That the Legislature of the State of California memorializes the President and the Congress of the United States to continue efforts to appropriate and allocate the entire $1.2 billion in economic assistance committed in the Economic Adjustment Initiative to assist communities adversely impacted by reduced timber harvest of United States forest lands; and be it further

"Resolved, That the economic assistance should be allocated to individuals and communities without large overhead and administrative costs being deducted by federal, state, and local agencies; and be it further

"Resolved, That a significant portion of the economic assistance should be used to help communities develop and diversify their economic base by providing incentives such as risk capital for new or expanding businesses and community infrastructure to support new businesses and jobs; and be it further

"Resolved, That the Legislature urges the Governor and the Secretary of the Resources Agency to keep the Legislature and local government informed of the activities of the executive branch with respect to the planning, enactment, and implementation of the economic assistance package, and provide adequate administrative support to ensure the timely participation of the state and local governments in the development of the package; and be it further

"Resolved, That the Legislature urges the Secretary of the Resources Agency to provide quarterly reports to the Joint Legislative Budget Committee identifying the amount and source of funding for all economic assistance programs and projects that are developed by the State Community Economic Revitalization Team (CERT) and financed by state or federal agencies, including, but not limited to, the Employment Development department, the Department of Housing and Community Development, and the California Trade and Commerce Agency; and be it further

"Resolved, That the Secretary of the Senate transmit copies of the resolution to the President and the Vice President of the United States, to the Congress of the United States, to each Senator and Representative from California in the Congress of the United States, and to the Governor and the Secretary of the Resources Agency."

POM-658. A joint resolution adopted by the General Assembly of the Commonwealth of Virginia; to the Committee on Environment and Public Works.

"HOUSE JOINT RESOLUTION NO. 2016

"Whereas, the United States Supreme Court in C & A Carbone, Inc. v. Town of Clarkstown found that the provisions of the Town of Clarkstown's flow control ordinance violated the "dormant" commerce clause of the United States Constitution; and

"Whereas, the United States Congress is considering flow control legislation to alleviate the potential impact of the Carbone decision on local governments; and

"Whereas, the Commonwealth has had a flow control law for 10 years that, after much debate, negotiation and revision, (i) provides local governments with flow control authority only following public hearings and specific findings by the local government related to the necessity for flow control, (ii) grandfathers certain facilities and (iii) limits the types of waste to which the authority may apply; and

"Whereas, Virginia's flow control mechanism has proven to be an equitable and workable resolution to the flow control issue for both private industry and local governments; and

"Whereas, local governments and private industry in the Commonwealth have relied on Virginia's flow control law in making hundreds of millions of dollars in investment and in making planning and business decisions; and

"Whereas, while it is important that Congress promptly enact flow control legislation so that flow control legislation enacted in the states is not threatened as a result of the Carbone decision, federal legislation could replace Virginia's solution to flow control problems with new procedures, options and requirements disrupting the equitable balance and certainty created by Virginia's flow control law; and

"Whereas, the legislative study committee established by House Joint Resolution 19 of the 1994 Session of the Virginia General Assembly to examine the flow control issue has found that supplanting Virginia's flow control statute would be disruptive and burdensome to Virginia's solid waste industry and local governments; now, therefore, be it *"Resolved by the House of Delegates, the Senate concurring*, That the United States Congress be requested to assure that any federal flow control legislation be in a form that does not preempt or modify the Commonwealth's law; and, be it *"Resolved further*, That the Clerk of the House of Delegates transmit copies of this resolution to the Speaker of the United States House of Representatives, the President of the United States Senate and the members of the Virginia Congressional Delegation to apprise them of the sense of the Virginia General Assembly in this matter."

POM-659. A joint resolution adopted by the Legislature of the State of California; to the Committee on Finance.

"SENATE JOINT RESOLUTION NO. 46

"Whereas, Existing federal law imposes an income tax on a portion of Social Security benefits for recipients whose annual income exceeds twenty-five thousand dollars ($25,000) for a person filing an individual return and thirty-two thousand dollars ($32,000) for persons filing a joint return; and

"Whereas, These income thresholds are not indexed to inflation, so that with time the percentage of Social Security recipients who are taxed on a portion of their benefits has increased; and

"Whereas, In 1984, when the federal income tax on Social Security benefits was first established, the tax affected 8 percent of recipients; and

"Whereas, By 1993, the tax affected 22 percent of recipients; and

Whereas, Future increases in inflation will lead to a higher percentage of seniors being taxed on their Social Security benefits; now, therefore, be it

"Resolved by the Senate and Assembly of the State of California, jointly, That the Legislature of the State of California respectfully memorializes the President and the Congress of the United States to enact legislation to index to inflation the income thresholds for the federal income taxation of Social Security benefits; and be it further

"Resolved, That the Secretary of the Senate transmit copies of this resolution to the President and the Vice President of the United States, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States."

POM-660. A joint resolution adopted by the Legislature of the State of California; to the Committee on Foreign Relations.

"SENATE JOINT RESOLUTION NO. 28

"Whereas, There have been serious allegations of human rights abuses in connection with the disturbances in the Punjab; and

"Whereas, The vast majority of the people of the area seek a peaceful resolution of these difficulties; and

"Whereas, It is the policy of the United States to support democratic governments and the preservation of human rights; now, therefore, be it

"Resolved, by the Senate and the Assembly of the State of California, jointly, That the Legislature of the State of California respectfully memorializes the President and the Congress of the United States to make the resolution of the difficulties in the Punjab a high priority through the use of all its diplomatic means; and be it further

"Resolved, That the Secretary of the Senate transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the United States House of Representatives, and to each Senator and Representative from California in the Congress of the United States."

POM-661. A resolution adopted by the Senate of the Legislature of the State of California; to the Committee on Foreign Relations.

SENATE RESOLUTION NO. 53

"Whereas, July 20, 1994, was the twentieth anniversary of the Turkish invasion of Cyprus, and the problem of Cyprus remains unresolved; and

"Whereas, The 200,000 refugees, who constitute 40 percent of the population, have not yet been allowed to return to their home and properties; and

"Whereas, The humanitarian crisis involving the enclaved Greek Cypriots in the occupied part of Cyprus grows increasingly more acute; and

"Whereas, As a result of the Turkish invasion, 1,619 persons, including five Americans, are still missing; and

"Whereas, The Republic of Cyprus has rendered substantive assistance to the United States in recent years in the region, particularly during the Iraqi invasion of Kuwait; and

"Whereas, President Clinton has declared human rights to be the hallmark of United States foreign policy; and

"Whereas, By the illegal use of arms supplied by the United States, Turkey has attacked, seized, and continues to occupy 38 percent of the territory of the Republic of Cyprus; and

"Whereas, Turkey has increased its troops in Cyprus to 40,000 in recent years and its colonizers to 85,000, and has illegally upgraded its arms on the island through weapons supplied by the United States for NATO defense; and

"Whereas, Turkey continues its longstanding policy of suppression of its Kurdish, Greek, Armenian, and Jewish minorities, as reported by Amnesty International, the Helsinki Watch Group, and the United States State Department; and

"Whereas, The Ecumenical Patriarchate in Istanbul, the See of Orthodoxy, has recently sustained fire bomb attacks and bombing attempts by Islamic Fundamentalists not yet apprehended; and

"Whereas, The rise in Islamic Fundamentalism and the recent vote in the Turkish Parliament to convert the Basilica of Orthodoxy, the St. Sophia Cathedral in Istanbul to a mosque are indications of the prevalence of religious intolerance in Turkey; and

"Whereas, Turkey has recently urged the United States to ease the sanctions imposed by the world community against Iraq, and Turkey was the recipient of financial and military assistance in excess of $500 million in 1993 from the United States: Now, therefore, be it

"Resolved by the Senate of the State of California, That the Legislature of the State of California respectfully memorializes the President and the Congress of the United States to do all of the following:

"(a) Assist the Secretary General of the United Nations in finding a solution to the Cyprus problem, based on the United Nations Charter and the relevant resolutions which provide for international guarantees for the sovereignty, independence, and territorial integrity of the Republic of Cyprus, and call for the freedom of movement, settlement, and property ownership throughout Cyprus.

"(b) Stop subsidizing the illegal occupation of Cyprus through its aid to Turkey, and to exert their best efforts to ensure the removal of all Turkish occupation troops and colonizers from Cyprus and restore majority rule to the people of Cyprus.

"(c) Stop all military and financial assistance to Turkey until it is in compliance with all articles of the European Convention on Human Rights.

"(d) Enforce the provisions of the 1961 Military Sales Act by recalling all U.S. supplied arms currently present in the occupied parts of Cyprus.

"(e) Stop any further assistance to Turkey until the 1,619 persons that are missing as a result of the 1974 Turkish invasion of Cyprus are accounted for, particularly Kyriacos Leontiou, Christos Libertos, Socrates Kapsouris, Jack Sofocleous, and Andreas Kassapis, who are all United States citizens; and be it further

"Resolved, That the Secretary of the Senate transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives and to each Senator and Representative from California in the Congress of the United States."

POM—662. A resolution adopted by the Legislature of the State of Missouri; to the Committee on Foreign Relations.

RESOLUTION

"Whereas, the people of the State of Missouri enjoy a sister state relationship with the Province of Taiwan, Republic of China; and

"Whereas, commercial interaction with the Republic of China on Taiwan has grown substantially in recent years, to the benefit of our State; and

"Whereas, democratic, multi-party political system has been smoothly established in the Republic of China on Taiwan in recent years; and

"Whereas, the direct role of the Republic of China on Taiwan in international development programs and humanitarian relief operations has expanded significantly during the past decade, often in close coordination with our nation's own such efforts; and

"Whereas, seven Central American countries have proposed to the Secretary General of the United Nations that a supplementary item be included in the provisional agenda of the 48th General Assembly session to consider the exceptional situation of the Republic of China on Taiwan in the international community, based on the principle of universality and in accordance with the established pattern of parallel representation by divided countries in the United Nations; *therefore be it*

"Resolved, by the Legislature of the State of Missouri, That our on-going commercial relationship with the people of the Republic of China on Taiwan should be recognized as serving our mutual interests in an equitable and reciprocal manner; and

"Resolved, That the record of the Republic of China on Taiwan concerning her democratization at home, and humanitarian service abroad, be accorded appropriate recognition by the people of this State; and

"Resolved, That due consideration should be given by the United States to the readiness of the Republic of China on Taiwan for the latter's further contributions to and broader participation in the international community, including such forums as multilateral trade associations, humanitarian relief organizations, and the United Nations; and

"Be it Further Resolved, that the Secretary of the Senate be instructed to prepare properly inscribed copies of this resolution for each member of the Missouri Congressional Delegation and for the Deputy Secretary of State of the Republic of China on Taiwan."

POM-663. A joint resolution adopted by the Legislature of the State of California; to the Committee on Governmental Affairs.

"SENATE JOINT RESOLUTION NO. 51

"Whereas, Unfunded federal mandates imposed on state, local, and tribal governments have become increasingly extensive in recent years; and

"Whereas, Unfunded federal mandates have, in many instances, added to the growing deficits in state, local and tribal government budgets and have resulted in the need for state, local, and tribal governments to increase revenue or curtail sometimes essential services; and

"Whereas, The excessive fiscal burdens on state and local governments have undermined, in many instances, the ability of state and local governments to achieve their responsibilities under state and local law; and

"Whereas, Congress Member Gary Condit has authored House Bill No. 140 (H.R. No. 140), the Federal Mandate Relief Act; and

"Whereas, H.R. No. 140 would ensure that the federal government pay the total amount of direct cost incurred by state and local governments in complying with federal requirements which take effect on or after the date of enactment of the Federal Mandate Relief Act under a federal statute or regulation; and

"Whereas, H.R. No. 140 would provide that any requirement under a federal statute or regulation that a state or local government conduct an activity (including a requirement that a government meet national standards in providing a service) shall apply to the State or local government only if all funds necessary to pay the direct costs incurred by the government in conducting the activity are provided by the federal government; now, therefore, be it

"Resolved by the Senate and Assembly of the State of California, jointly, That the Legislature respectfully memorializes the President and the Congress of the United States to adopt the Federal Mandate Relief Act, and proposed by H.R. No. 140, at the earliest possible time to ease the fiscal burdens imposed on state, local, and tribal governments; and be it further

"Resolved, That the Secretary of the Senate transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the United States House of Representatives, and to each Senator and Representative from California in the Congress of the United States."

POM-664. A joint resolution adopted by the Legislature of the State of California; to the Committee on Governmental Affairs.

"RESOLUTION

"Whereas, The 10th Amendment to the Constitution of the United States reads as follows:

"Whereas, The 10th Amendment to the Constitution of the United States reads as follows:

"The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the State respectively, or to the people"; and

"Whereas, The 10th Amendment defines the total scope of federal power as being that specifically granted by the United States Constitution and no more; and

"Whereas, The scope of power defined by the 10th Amendment means that the federal government was created by the states specifically to be an agent of the states; and

"Whereas, In the year 1994, the states are demonstrably treated as agents of the federal government; and

"Whereas, Numerous resolutions have been forwarded to the federal government by the California Legislature without any response or result from Congress or the federal government; and

"Whereas, Many federal mandates are directly in violation of the 10th Amendment to the Constitution of the United States; and

"Whereas, The United States Supreme Court has ruled in New York v. United States, 112 S. Ct. 2408 (1992), that Congress may not simply commandeer the legislative and regulatory processes of the states; and

"Whereas, A number of proposals from previous administrations and some now pending from the present administration and from Congress may further violate the United States Constitution; now, therefore, be it

"*Resolved by the Senate and Assembly of the State of California, jointly*, That the State of California hereby claims sovereignty under the 10th Amendment to the Constitution of the United States over all powers not otherwise enumerated and granted to the federal government by the United States Constitution and that this measure shall serve as notice and demand to the federal government to cease and desist, effective immediately, mandates that are beyond the scope of its constitutionally delegated powers; and be it further

"*Resolved*, That the Secretary of the Senate transit copies of this resolution to the President and Vice President of the United States, the Speaker of the United States House of Representatives, the President pro Tempore of the United States Senate, each Senator and Representative from California in the Congress of the United States and to the Speaker of the House and the President of the Senate of each state legislature in the United States of America."

POM–665. A resolution adopted by the Senate of the Legislature of the State of Texas; to the Committee on Governmental Affairs.

"SENATE RESOLUTION NO. 146

"Whereas the Senate of the State of Texas respectfully concurs with the executive and legislative branches of the United States government in assigning the "highest national priority" to determining the location and status of all American servicemen and civilians still missing from the Korean War; and

"Whereas there are over 8,177 American servicemen and civilians still missing in action whose fates remain uncertain to this day, some 42 years since the withdrawal of American troops from Korea; and

"Whereas the majority of information obtained on these missing servicemen and civilians to date has remained classified, denying the families of these missing servicemen and civilians, as well as the press and the American public, access to reports of live prisoner sightings, burial sites and information, and detainment camp locations and information; and

"Whereas much of this important information could be declassified without compromising the methods, resources, and identities of intelligence operatives; now, therefore, be it

"*Resolved*, That the Senate of the State of Texas, 73rd Legislature, hereby respectfully urge the President to declassify all information relating to American military personnel and civilians who remain missing from the Korean War, except for that information that would reveal the methods, resources, and identities of intelligence operatives; and, be it further

"*Resolved*, That any remains returned from Korea in the future be transferred to the Smithsonian Institution in Washington, D.C., for the purpose of identification; and that the United States continue its current policy that diplomatic and economic relations with North Korea be normalized only when that country has helped make a complete accounting of the missing, whether still alive or dead; and, be it further

"*Resolved*, That a copy of this Resolution be prepared for the President of the United States, the Speaker of the House of Representatives and President of the Senate of the United States Congress, and all members of the Texas Congressional delegation as an expression of the sentiment of the Texas Senate."

POM–666. A joint resolution adopted by the Legislature of the State of California; to the Committee on the Judiciary.

"SENATE JOINT RESOLUTION NO. 48

"Whereas, On January 17, 1969, Major An Quy Nguyen of the Vietnamese Naval Air Force led a mission of United States Army helicopters and Vietnamese Naval Air Force helicopters to deploy a Special Forces platoon deep into enemy-held territory; and

"Whereas, Major An, after coming under sniper fire, reached the mission destination, unloaded his troops, and thereafter remained overhead to monitor the remainder of the mission; and

"Whereas, One of the United States Army helicopters was badly damaged by heavy weapons fire and because of that damage was forced to attempt an emergency landing in enemy territory; and

"Whereas, Major An, with complete disregard for his own life and safety, immediately pulled alongside the damaged helicopter and guided it under hazardous conditions to a site within enemy territory where it could be landed; and

"Whereas, Major An then landed his own craft alongside the crippled helicopter, retrieved the four Americans who evacuated the downed helicopter, and flew them to safety; and

"Whereas, Major An was nominated for the Silver Star and received the Distinguished Flying Cross; and

"Whereas, After being seriously injured on a subsequent mission, Major An lost both of his arms, and later spent time in a forcelabor camp, suffering physical deprivation and separation from his family; and

"Whereas, Major An and his daughter, Ngoc Kim Quy Nguyen, who assists him in his daily living activities, desire to become citizens of the United States but have been granted only one-year visas for humanitarian purposes; and

"Whereas, His records are part of the National Archives in Washington, D.C., and his cause is championed by United States military and political leaders; and

"Whereas, Major An was received with reverence and military pomp and circumstance as befits a hero when he and his daughter arrived at Travis Air Force Base on January 15, 1994; and

"Whereas, The United States of America owes Major An a debt of gratitude for the lives and safety of at least four American servicemen; now, therefore, be it

"*Resolved by the Senate and Assembly of the State of California, jointly*, That the Legislature of the State of California respectfully memorializes the President and the Congress of the United States of America to take the appropriate action to enable Major An Quy Nguyen and his daughter Ngoc Kim Quy Nguyen to remain in the United States and assist them in any way possible to meet their goal of obtaining citizenship; and be it further

"*Resolved*, That the Secretary of the Senate transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the United States House of Representatives, and to each Senator and Representative from California in the Congress of the United States.

POM–667. A joint resolution adopted by the Legislature of the State of California; to the Committee on the Judiciary.

SENATE JOINT RESOLUTION NO. 36

"Whereas The McCarran-Ferguson Act recognizes that the taxation and regulation of the business of insurance by the states rather than the federal government is in the public interest; and

"Whereas Article I of the United States Constitution authorizes cooperation among the states through the use of interstate compacts; and

"Whereas The states, through the National Association of Insurance Commissioners, the National Conference of Insurance Legislators, the National Conference of State Legislatures, and other bodies have been engaged in an ongoing effort improve state insurance regulation through a number of statutory and regulatory initiatives; and

"Whereas, Interstate compacts have proven to be effective and efficient mechanisms for the states to strengthen and coordinate their regulatory responsibilities, particularly as they affect complicated multistate issues; and

"Whereas It is in the best interests of the people of the State of California for this state's regulatory capability to be enhanced and coordinated with other states, when practical; now, therefore, be it

"*Resolved by the Senate and Assembly of the State of California, jointly*, That the National Association of Insurance Commissioners, the Council of State Governments, the National Conference of State Legislatures, the National Conference of Insurance Legislators, and all other similar organizations are hereby encouraged to develop an interstate compact for insurance regulation and to present the compact to the California Legislature for its consideration at the earliest practicable time; and be it further

"*Resolved*, Tht the United States Congress should adopt appropriate resolutions encouraging the states to adopt insurance regulatory compacts and, to the extent required by law, consent to the adoption of these compacts by the states; and be it further

"*Resolved*, That the Secretary of the Senate transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, to each Senator and Representative from California in the Congress of the United States, and to the chairpersons of the National Association of Insurance Commissioners, the Council of State Governments, the National Conference of State Legislatures, and the National Conference of Insurance Legislators."

POM–668. A joint resolution adopted by the Legislature of the State of California; to the Committee on Labor and Human Resources.

POM–668. Senate Joint Resolution No. 23—Relative to nursing facilities.

"Whereas, Increasing state budget pressures may compel fine assessment to a level where they trigger nurse aide training program disapprovals; and

"Whereas, The initiation of either a partial or extended survey and the imposition of civil monetary penalties, regardless of survey findings, abolishes an approved nurse aide training program for two years even through there may be no relationship or violation of standards relevant to the nurse aide training program; and

"Whereas, Approximately 90 to 100 nurse aide training programs will be disapproved this year which will prevent 1,200 to 1,300 nurses aides from receiving necessary training; and

"Whereas, Facility-based training programs comprise one-half of all nurse aide training programs and are critical to the maintenance of a labor resource; and

"Whereas, Onsite nurse aide training programs promote quality care in a long-term health care facility; and

"Whereas, The disapproval of a program for two years constitutes a disincentive to the establishment of a well-trained nursing staff, and henceforth, serves to reduce the quality of care provided to nursing facility residents; now, therefore, be it

"Resolved by the Senate and Assembly of the State of California, jointly, That the Legislature of the State of California respectfully memorializes the President and the Congress of the United States to enact legislation that would require governmental agencies responsible for the disapproval of a nurse aid training program to disapprove a nurse aid training program only for violations of regulations that directly relate to the quality of the nurse aide training program and, once the problems are resolved, to permit the timely reapproval of the nurse aide training program within the nursing facility; and be it further

"Resolved, That the Secretary of the Senate transmit copies of this resolution to the President and Vice President of the United States, the Speaker of the House of Representatives, and to each Senator and Representative from California."

POM-669. A joint resolution adopted by the Legislature of the State of California; to the Committee on Labor and Human Resources.

"SENATE JOINT RESOLUTION NO. 38

"Whereas, The railroad industry is acknowledged as the originator of private employer pensions in the United States; and

"Whereas, In the 1930's the United States Congress assumed the responsibility for developing a federally administered retirement program to place the various railroad pension plans on a solid financial basis; and

"Whereas, The Railroad Retirement System today covers over one million individuals who have contributed over the years in good faith and who have legitimate expectations of receiving their benefits; and

"Whereas, The National Performance Review in its report "From Red Tape to Results: Creating a Government That Works Better and Costs Less" originally proposed to transfer the functions of the Railroad Retirement Board to the Social Security Administration and to other federal agencies; however, this proposal has been eliminated from the federal legislation (House Resolution 3400) that would implement the report; and

"Whereas, This proposal would have terminated a program that has worked well and provided retirement security to millions of people for nearly 60 years; and

"Whereas, It now costs less money per benefit dollar to administer Railroad Retirement than it costs to administer Social Security and consequently, the proposal is likely to increase costs to the taxpayer; and

"Whereas, The transfer would violate the federal government's stated commitment to "serving the customer" as current and future Railroad Retirement beneficiaries vehemently oppose the transfer; and

"Whereas, This action threatens to disrupt earned and needed benefits for 1.3 million active, retired, and disabled rail workers and their families; and

"Whereas, This proposal would adversely affect all active, retired, and disabled railroad employees and their families in the great State of California; now, therefore, be it

Resolved by the Senate and the Assembly of the State of California, jointly, That the Legislature of the State of California memorialize the President and the Congress of the United states to recognize and affirm a continued commitment to the Railroad Retirement System and to assure the integrity of the railroad retirees' benefits; and be it further

"Resolved, That the preservation of the present structure of the Railroad Retirement System, including the administrative framework of the Railroad Retirement Board, is necessary to fulfill the time-honored responsibility of the federal government; and be it further

"Resolved, That the Secretary of the Senate transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States."

POM-670. A joint resolution adopted by the Legislation of the State of California; to the Committee on Labor and Human Resources.

"SENATE JOINT RESOLUTION NO. 39

"Resolved by the Senate and Assembly of the State of California, jointly, That the Legislature of the State of California memorializes the Congress of the United States to encourage federal efforts to develop, implement, and evaluate violence prevention and anti-aggression education curricula for use in public elementary and secondary schools; and be it further

"Resolved, That the Secretary of the Senate transmit copies of this resolution to the President and Vice President of the United States, the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States."

REPORTS OF COMMITTEE

The following reports of committees were submitted:

By Mr. JOHNSTON, from the Committee on Energy and Natural Resources:

Report to accompany the bill (S. 112) to establish the Hudson River Artists National Historical Park in the State of New York, and for other purposes (Rept. No. 103-413).

Report to accompany the bill (S. 855) to authorize the Secretary of the Interior to consolidate the surface and substance estates of certain lands within 3 conservation system units on the Alaska Peninsula, and for other purposes (Rept. No. 103-414).

Report to accompany the bill (S. 1222) to revise the boundaries of the Blackstone River Valley National Heritage Corridor in Massachusetts and Rhode Island, and for other purposes (Rept. No. 103-415).

Report to accompany the bill (S. 1324) to authorize the Secretary of the Interior to exchange certain lands of the Columbia Basin Federal reclamation project, Washington, and for other purposes (Rept. No. 103-416).

Report to accompany the bill (S. 1726) to provide for a competition to select the architectural plans for a museum to be built on the East Saint Louis portion of the Jefferson National Expansion Memorial, and for other purposes (Rept. No. 103-417).

Report to accompany the bill (S. 2064) to expand the boundary of the Weir Farm National Historic Site in the State of Connecticut (Rept. No. 103-418).

Report to accompany the bill (S. 1998) to provide for the acquisition of certain lands formerly occupied by the Franklin D. Roosevelt family, and for other purposes (Rept. No. 103-419).

Report to accompany the bill (S. 2001) to improve the administration of the Women's Rights National Historical Park in the State of New York, and for other purposes (Rept. No. 103-420).

Report to accompany the bill (S. 2078) to amend the National Trails System Act to designate the Old Spanish Trail and the Northern Branch of the Old Spanish Trail for potential inclusion into the National Trails System, and for other purposes (Rept. No. 103-421).

Report to accompany the bill (S. 2121) to promote entrepreneurial management of the National Park Service, and for other purposes (Rept. No. 103-422).

Report to accompany the bill (S. 2234) to amend the Mississippi River Corridor Study Commission Act of 1989 to extend the term of the commission established under that Act (Rept. No. 103-423).

Report to accompany the bill (S. 2249) to amend the Alaska Native Claims Settlement Act, and for other purposes (Rept. No. 103-424).

Report to accompany the bill (S. 2303) to provide for the exchange of lands within Gates of the Arctic National Park and Preserve, and for other purposes (Rept. No. 103-425).

Report to accompany the bill (H.R. 457) to provide for the conveyance of lands to certain individuals in Butte County, California (Rept. No. 103-426).

Report to accompany the bill (H.R. 1716) to amend the Act of January 26, 1915, establishing Rocky Mountain National Park, to provide for the protection of certain lands in Rocky Mountain National Park and along North St. Vrain Creek, and for other purposes (Rept. No. 103-427).

Report to accompany the bill (H.R. 2620) to authorize the Secretary of the Interior to acquire certain lands in California through an exchange pursuant to the Federal Land Policy and Management Act of 1976 (Rept. No. 103-428).

Report to accompany the bill (H.R. 3433) to provide for the management of portions of the Presidio under the jurisdiction of the Secretary of the Interior (Rept. No. 103-429).

Report to accompany the bill (H.R. 3498) to establish the Great Falls Historic District, and for other purposes (Rept. No. 103-430).

Report to accompany the bill (H.R. 1137) to amend the Geothermal Steam Act of 1970 (30 U.S.C. 1001-1027), and for other purposes (Rept. No. 103-431).

Report to accompany the bill (H.R. 3252) to provide for the conservation, management, or study of certain rivers, parks, trails, and historic sites, and for other purposes (Rept. No. 103-432).

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first

and second time by unanimous consent, and referred as indicated:

By Mr. FORD:

S. 2563. A bill for the relief of land grantors in Henderson, Union, and Webster Counties, Kentucky, and their heirs; to the Committee on the Judiciary.

By Mr. GREGG:

S. 2564. A bill to delay the required implementation date for enhanced vehicle inspection and maintenance programs under the Clean Air Act and to require the Administrator of the Environmental Protection Agency to reissue the regulations relating to the programs, and for other purposes; to the Committee on Environment and Public Works.

By Mr. PRESSLER:

S. 2565. A bill to amend the Fair Labor Standards Act of 1938 to exempt employees who perform certain court reporting duties from the compensatory time requirements applicable to certain public agencies, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. WALLOP:

S. 2566. A bill to amend the Federal Water Pollution Control Act to restore State control over the allocation and granting of water rights and FERC control over the licensing of hydroelectric projects, and for other purposes; to the Committee on Energy and Natural Resources.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. FORD:

S. Res. 286. A resolution to refer S. 2563 entitled, "A bill for the relief of land grantors in Henderson, Union and Webster counties, Kentucky, and their heirs," to the Chief Judge of the United States Claims Court for a report thereon; to the Committee on the Judiciary.

By Mr. WELLSTONE (for himself, Mr. LEAHY, and Mr. JEFFORDS):

S. Res. 287. A resolution to express the sense of the Senate regarding regulation of mercury hazardous waste, and for other purposes; to the Committee on Environment and Public Works.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. FORD:

S. 2563. A bill for the relief of land grantors in Henderson, Union, and Webster Counties, KY, and their heirs; to the Committee on the Judiciary.

THE KENTUCKY LAND GRANTORS RELIEF ACT OF 1994

Mr. FORD. Mr. President, for many years I have introduced legislation to help a group of Kentuckians and their heirs get an opportunity to have their day in court. Last September, their cause got a giant push forward when the Senate unanimously passed a resolution on their behalf. The resolution authorized the U.S. Court of Claims to study their situation and make a report back to the Senate.

During this consideration, there has been some confusion as to exactly who would be covered under the original legislation. So today, I am reintroducing legislation that I hope will clear up any misunderstandings or misinterpretations. This new language makes it unequivocally clear who is to be covered under my original legislation, S. 794.

The fact is, many folks have gotten the short end of the stick on this matter and I hope that they can receive some kind of restitution. Anyone who lost their land and their right to buy it back, or the mineral rights for that matter, should be considered for restitution. Fair is fair, these fine people have waited long enough, let us let all of them have their share of justice.

For those of my colleagues that are unfamiliar with this situation, I ask unanimous consent that the bill and the full text of a newspaper article on the subject from the Henderson Gleaner be entered into the RECORD.

I thank my colleagues for their time.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 2563

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. AUTHORIZATION.

The Secretary of the Treasury is authorized and directed to pay, out of money not otherwise appropriated, to the individuals (and in any case in which such individual is deceased, the heirs of such individual) who were the former owner of properties located in Henderson, Union, and Webster Counties, Kentucky which were condemned or otherwise procured by the United States Government in order to provide the approximately 36,000 acres necessary for the military training camp known as Camp Breckinridge, the sum of $, such sum being in full satisfaction of all claims by such individuals against the United States arising out of such sale.

SEC. 2. REASON FOR RELIEF.

The individuals described in Section 1 assert that they were—

(1) promised they would be given priority to repurchase land sold by the United States Government; and

(2) paid less than reasonable value due in part to the refusal of the United States government to compensate the owners for mineral, oil and gas rights.

SEC. 3. ATTORNEY FEES.

No part of the amount appropriated by this Act in excess of ten percent thereof shall be paid or delivered to or received by any agent or attorney on account of services rendered in connection with this claim, any contract to the contrary notwithstanding. Violation of the provisions of this section is a misdemeanor punishable by a fine not to exceed $1,000.

DESCENDANTS OF THOSE EVICTED FOR ARMY CAMP WILL GET HEARING

(By Frank Boyett)

After three decades of struggle, the descendants of 1,500 families evicted from their farms to form Camp Breckinridge in World War II apparently will finally get a full hearing in court.

The U.S. Senate passed a resolution Tuesday that authorizes the U.S. Court of Claims to study the situation and make a report back to the Senate on possible compensation. U.S. Sen. Wendell Ford has sponsored similar resolutions in every congressional session since 1979, but up to now has never been able to get a unanimous vote in the Judiciary Committee, which is necessary before special relief legislation can be sent to the Senate floor.

"All these families ever wanted was to have their day in court and be given the opportunity to rectify the injustices done to them by the government," Ford said. "Their determination and perseverance should be an example to everyone who refuses to give up on what they think is right. They have stayed together, never given up, and now will have the opportunity under this legislation to present their case in a court of law."

The story has its beginning more than 50 years ago. In 1942, less than two months after the attack on Pearl Harbor, the federal government authorized the construction of an army camp on 36,000 acres in Henderson, Union and Webster counties, with the bulk of the base in Union County.

Farmers were paid roughly $3.5 million for their land, and were told to vacate almost immediately.

Most farmers accepted the low payments the government offered, on the promise the government would give them first chance to buy back their farms once the war was over.

Thousands of men were trained at Camp Breckinridge during World War II, and the camp was reactivated during the Korean War.

Meanwhile, the law under which the farmers were promised their land back was repealed, and the farmers were unaware that the deadline had passed for them to file claims to reacquire their land.

In the early 1960s, however, the land was declared surplus. The government subsequently sold the land at auction for about $40 million—much of that money coming from the sale of the coal and oil rights. The farmers were never paid for the mineral rights, because Camp Breckinridge was supposed to be only a temporary military camp.

At that point the farmers organized the Breckinridge Land Committee and tried to get their land back. They filed a suit in U.S. District Court in Owensboro in 1965, maintaining that they had been promised first chance at the land. The court ruled against them, pointing out that the law under which they made their claim had been repealed and the deadline had long passed for filing claims.

An appeals court also ruled against them, and the U.S. Supreme Court refused to hear the case.

The land committee languished for about a decade, and then reorganized in the late 1970s, at which point Ford got involved.

"They were not able to get to the merits of their case in a court of law," said Robert Mangas, a lawyer who works in Ford's office. "All we did (with passage of the resolution) was to give them their day in court."

Mangas said the U.S. Court of Claims should be able to resolve the case fairly quickly. A decision possibly could be made within a matter of months, he said, since the land committees has kept most of the pertinent documents, and there may be no need for hearings.

"They have a lot of discretion on how formal the proceedings get or how much evidence they feel is necessary," he said.

Ruby Higginson Au, whose father owned a major farm in the area, has been one of the leaders of the Breckinridge Land Committee

for more than 15 years, and wrote a book about the subject in the mid-1970s.

"We are delighted (Ford) was able to get it through this time," she said from her home in Prospect. The committee is now looking for a lawyer to represent it before the Court of Claims, she said, and will be meeting at 7:30 p.m. Friday at the Union County Courthouse.

"There will be a lot of happy faces there on Friday evening," Mrs. Au said.

"We are certain it will be a positive recommendation" from the Court of Claims. "We feel that we have a very strong case. We had a very strong case in 1965, but the attitude of the judges was that the government never does anything wrong."

By Mr. PRESSLER:

S. 2565. A bill to amend the Fair Labor Standards Act of 1938 to exempt employees who perform certain court reporting duties from the compensatory time requirements applicable to certain public agencies, and for other purposes; to the Committee on Labor and Human Resources.

THE COURT REPORTER FAIR LABOR STANDARDS ACT OF 1994

Mr. PRESSLER. Mr. President, on November 8, the American people sent a strong, clear signal to Washington: They want less government and they want it now. Today, I rise to introduce a bill which addresses a problem that illustrates why the American people sent this signal. It is a glaring example of the Federal Government sticking its nose into a situation that everyone is happy with. Let me explain.

The U.S. Department of Labor [DOL] has adopted a position concerning the status of official court reporters under the Fair Labor Standards Act of 1938 [FLSA]. Currently, official court reporters enjoy a unique status among Government workers. In most States, they are treated as both Government employees and independent contractors. While performing their primary duties of recording and reading back court proceedings, they are considered employees of the court and are typically compensated with an annual salary and benefits.

However, in addition to their in-court duties, court reporters in most jurisdictions are required to prepare and certify transcripts of their stenographic records for private attorneys, litigants, and others. The reporter and his or her assistants prepare and deliver transcripts using their own equipment, without any supervision by the court. The court reporter bills the attorney or other client directly and collects a per-page fee set by law or court rule. In charging this fee, the court reporter usually earns twice the amount or more earned during an hour of salaried work for the court. Indeed, it is possible for a court reporter to earn more from private transcription work than from his or her annual salary.

When working for a private fee, the court reporter is clearly acting as an independent operator, as has been specifically determined by the Internal Revenue Service. The fee income is treated as separate and apart from the annual government salary for taxation purposes. In fact, in my home State of South Dakota, court reporters are required to collect and pay sales tax on this income. They also file self-employment income forms with the Internal Revenue Service.

The transcription services provided by court reporters are invaluable to private parties. They are able to obtain a highly accurate recording of court proceedings quickly and reliably. Court reporters are small businessmen and businesswomen performing a cost effective and timely service. There may be many flaws in our system of justice, but our system of court reporting is not among them.

As I stated earlier, everyone is happy with the current situation as it now exists. Everyone, that is, except the U.S. Department of Labor. Unfortunately, DOL has not yet recognized the independent capacity of court reporters. An August 26, 1994, letter from the Wage and Hour Division of the Labor Department took the position that, while preparing transcripts for attorneys, litigants, and other parties, official court reporters in the State of Oregon still are acting as employees of the court for purposes of FLSA. Similar letters have been received regarding official court reporters in Indiana and North Carolina. Official court reporters in the vast majority of States operate in circumstances similar to as these three States.

If allowed to stand, this interpretation would require State and local courts to pay court reporters one and one-half times their regular rate of pay for all transcription work performed during overtime hours in a given week. The DOL position threatens to dramatically impact State and local court budgets. They will either have to increase their salary budgets or cut costs elsewhere, possibly including job reductions. In return, they would receive nothing except additional administrative duties and headaches.

The Labor Department's position also exposes State and local courts to potentially explosive liability costs from court reporters suing for overtime back-pay. If a suit is successful, the court would owe the reporter at least 2 years worth of overtime back-pay. The amount would be doubled if the court could not demonstrate that it was acting in good faith and could go back 3 years if the violation were deemed willful.

Faced with exposure to hundreds of millions of dollars of liability nationwide, State and local courts are considering dramatic changes in their pay practices and how transcription work is to be performed. Many of these contemplated changes include severe reductions in the number of court reporter positions. Meanwhile, court reporters who continue to perform transcription work may be required to do it for substantially reduced compensation. In addition to their own loss of income, the high level of productivity encouraged by a per-page method of billing would be lost. An already overburdened judicial system would suffer even greater inefficiencies.

In short, no one involved in the court reporting system is happy with DOL's position. State and local courts would face increased salary budgets and liability exposure. Court reporters would lose a significant part of their income and, in some cases, their jobs. Private parties would lose the productivity and efficiency of the current method of transcription.

So why is this change being considered? After all these years, why has the Department of Labor suddenly decided that the Fair Labor Standards Act applies in situations never before contemplated? What extraordinary benefits will result from this governmental meddling? These are all questions better directed to the Secretary of Labor because I do not know the answers.

I do have a solution, however: Keep government out of the situation. Don't fix what is not broken.

The bill I am introducing today would allow an exemption from the Fair Labor Standards Act for official court reporters while they are performing transcription duties for a private party, provided there is an understanding between the court reporters and their State or local court employer. The bill also would bar lawsuits by court reporters for overtime back-pay.

Note that only State and local court reporters would be affected. Federal court reporters already enjoy a complete exemption from FLSA. Passage of my bill would ensure similar treatment for government court reporters regardless of whether they work for a Federal, State, or local court.

Interestly, this exemption from the so-called "protection" of the Federal wage and hour laws is being sought by the very workers the laws were designed to protect—the court reporters themselves. They have already asked the Department of Labor to reconsider its position and the matter is currently under review. Obviously, if the Department's position is reconsidered and the exemption is granted, legislation will not be necessary. I sincerely hope this is what happens.

Mr. President, it is not often that labor and management are in agreement on the best solution regarding contentious labor issues. In this case, however, everyone agrees that the current system serves everyone's best interests. Despite the fact that they could recover huge back pay awards, the court reporters are willing to forego the opportunity to bring suits in order to preserve the current system.

That is why the National Court Reporter Association strongly supports this legislation. The bottom line is: Court reporters do not want the protections of the Fair Labor Standards Act for their transcription work.

Again, I hope the Department of Labor eliminates the need for this bill by giving a reasonable interpretation to the current law that permits labor and management to work these issues out to their mutual benefit without the helping hand of the Federal Government. I urge the Department to reconsider its position. If it does not, I will act quickly in the new Congress in seeking enactment of the exemption through legislation.

Mr. President, I ask unanimous consent that the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2565

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Court Reporter Fair Labor Standards Act of 1994".

SEC. 2. LIMITATION ON COMPENSATORY TIME FOR COURT REPORTERS.

Section 7(o) of the Fair Labor Standards Act of 1938 9 (29 U.S.C. 207(o)) is amended—

(1) by redesignating paragraph (6) as paragraph (7); and

(2) by inserting after paragraph (5) the following new paragraph:

"(6) A public agency may not be considered to be in violation of subsection (a) with respect to an employee who performs court reporting transcript preparation duties if such public agency and such employee have an understanding that the time spent performing such duties outside of normal working hours or regular working days is not considered as hours worked for the purposes of subsection (a).".

SEC. 3. EFFECTIVE DATE OF AMENDMENTS.

The amendments made by section 2 shall take effect as if included in the provisions of the Fair Labor Standards Act of 1938 to which such amendments relate, except that such amendments shall not apply to an action—

(1) that was brought in a court involving the application of section 7(a) of such Act to an employee who performed court reporting transcript preparation duties; and

(2) in which a final judgment has been entered on or before the date of enactment of this Act.

By Mr. WALLOP:

S. 2566. A bill to amend the Federal Water Pollution Control Act to restore State control over the allocation and granting of water rights and FERC control over the licensing of hydroelectric projects, and for other purposes; to the Committee on Energy and Natural Resources.

LEGISLATION TO OVERTURN THE TACOMA DECISION

Mr. WALLOP. Mr. President, I send to the desk for appropriate reference legislation to overturn the Supreme Court's decision in *PUD No. 1 of Jefferson County, et al* v. *Washington Department of Ecology, et al.* (generally referred to as Tacoma) in order to restore the jurisdiction of the 50 States over decisions with respect to the allocation of water and reassert the proper role of the Federal Government and the States within the framework set forth in the Constitution.

Tacoma is contrary to the intent of Congress as expressed in the Clean Water Act and several other laws, and the results of this decision are bad public policy. Tacoma deserves to be overturned, and the legislation I am today introducing would do so by amending the Clean Water Act to restore the state of the law to where it was prior to Tacoma.

By misinterpreting the Clean Water Act, and by ignoring the extensive legislative history of the Federal power Act, the Electric Consumers Protection Act of 1986, and the Energy Policy Act of 1992, the Tacoma decision threatens State water law and the integrity of the FERC hydroelectric licensing process. Tacoma may also give the EPA effective control over a host of other federally authorized activities requiring a Clean Water Act section 401 certificate, such as natural gas pipelines and electric transmission lines crossing waterways, as well as structures such as oil and gas drilling rigs sited in waterbodies and wetlands. Let me explain why.

The Tacoma case involved a hydroelectric project proposed by the city of Tacoma on the Dosewallips River in the State of Washington. Under the Clean Water Act, an applicant for a Federal license for an activity involving discharges into navigable waters (such as a FERC license to build a hydroelectric project) must obtain a section 401 certificate from the State in which the discharge will occur. The section 401 certificate contains conditions to require the licensee to comply with State water quality standards.

The State of Washington included in its section 401 certificate for the project a requirement that the licensee provide minimum stream flows for fish habitat—requirements which were clearly unrelated to the prevention of water pollution.

Because the section 401 certificate limited the amount of water that could be used for the production of electricity by the project, the city of Tacoma protested that the minimum stream flows would render the project economically infeasible. More importantly, the city of Tacoma contended that imposing stream flows for fish habitat were not proper water quality requirements pursuant to section 401 of the Clean Water Act.

The city of Tacoma argued that sections 510(2) and 101(g) of the Clean Water Act specifically exclude regulation of water quantity allocations—reserving that to the several States. I can understand why the city of Tacoma made that argument, because that is what the plain language of those sections says. Section 510(2) states:

> Except as expressly provided in this act, nothing in this act shall * * * (2) be construed as impairing or in any manner affecting any right or jurisdiction of the States with respect to the waters (including boundary waters) of such States.

Moreover, section 101(g) states:

> It is the policy of Congress that the authority of each State to allocate quantities of water within its jurisdiction shall not be superseded, abrogated or otherwise impaired by this act. It is the further policy of Congress that nothing in this act shall be construed to supersede or abrogate rights to quantities of water which have been established by any State.

This Clean Water Act language is clear on its face, but apparently not so for the Clinton administration. The EPA and the Department of Justice decided to read into the Act something that Congress not only did not intend, but specifically rejected. They argued that water quantity and water quality are inseparable, and thus water quality programs cannot fulfill the act's goal of protecting the biological integrity of the Nation's waterways without control of stream flows.

I think I know a little about congressional intent with respect to section 101(g), because in 1977 I was the one who added it to the Clean Water Act and that provision has generally been referred to as the Wallop amendment. There is no question that section 101(g) was intended to assure that the Clean Water Act would not be used for the purpose of interfering with State water right systems. It reinforced the already existing prohibition against interference with State water rights in section 510(2), which was part of the original Clean Water Act enacted in 1972. As I said on this floor in 1977:

> The amendment speaks only—but significantly—to the rights of States to allocate quantities of their water and to determine priority uses. It recognizes the differences in types of water law across the Nation. It recognizes patterns of use, and the historic allocation rights contained in State constitutions.

When enacting this provision, the Congress recognized that legitimate water quality measures taken under the Clean Water Act may, at times, have some incidental effect on individual water rights. The addition of section 101(g) was not to preclude minor, incidental effects. We sought then, and all Members of the Senate continue to seek now, the application of standards necessary to improve the quality of our Nation's waters. Everyone favors that.

But, as is clear from a plain reading of the statute, and as is abundantly clear from the accompanying legislative history, Congress never intended that a section 401 water quality certificate could be used to require activities not related to clean water. For example, Congress never intended to allow

the State of Washington to use the Clean Water Act to require the city of Tacoma to maintain a level of stream flow in order to enhance a fishery, or the State of Vermont to require the spillage of water over a dam to make the project more aesthetically pleasing. Although there may be some who want to employ the Clean Water Act to achieve these ends, that is not what Congress intended.

Unfortunately, and to the surprise and dismay of this Senator, the Supreme Court did not agree, and based its decision on other than a plain reading of the law. It ruled in Tacoma that a State may include minimum stream flow requirements in a section 401 water quality certificate notwithstanding the plain meaning of the act. The Court held that Clean Water Act sections 101(g) and 510(2) preserved only the authority of each State to allocate water quantity as between users, and did not limit the scope of water pollution controls that may be imposed on users who have obtained a water allocation. This has serious and far-reaching consequences.

Under the Tacoma decision, any condition may be imposed to enforce a "use" of a water body designated in a water quality standard under the Clean Water Act. Such uses can be extremely broad. For example, they may include fish and wildlife habitat, swimming, boating, fishing, and other recreational activities. There appears to be no meaningful check on the imposition of onerous or even project-breaking conditions by section 401 certifications, so long as the conditions relate to the designated use. In one case, a license applicant was even required to construct access roads and paths, low-water stepping stone bridges, a boat launching facility, and a residence and storage building. What that has to do with water quality, I do not know.

Worse yet, the Supreme Court made clear that the scope of its ruling reaches beyond the FERC hydroelectric licensing at issue in Tacoma, to all federally authorized activities that may result in a discharge into waterways and wetlands. These may include:

Permits under section 404 of the Clean Water Act for the discharge of dredged and fill material associated with the construction of water supply projects, gas pipelines, electric transmission lines, and other structures that must be built in waterbodies and wetlands.

Permits for installation of structures in navigable waters under the Rivers and Harbors Act.

Permits from the Secretary of Interior or Agriculture for the construction of reservoirs, canals and water storage systems on Federal lands.

The Court's decision is particularly perplexing in light of Congress's actions in the Electric Consumers Protection Act of 1986 and the Energy Policy Act of 1992. In both acts, the Congress considered, but affirmatively rejected, any expansion of the EPA's powers over stream flows. Furthermore, in the Energy Policy Act of 1992, the conference committee quite emphatically rejected an effort to permit fish and wildlife agencies to include flows within their conditions, and limited them solely to structural modifications. That entire debate and determination has been rendered meaningless by the Court's ruling that allows EPA to bootstrap impermissible requirements from the Fish and Wildlife Service under the guise of a mandatory condition from section 401. The careful balancing of fish and wildlife agency recommendations agreed upon in the ECPA of 1986 and contained in section 10(j) of the Federal Power Act have also been overridden by this decision.

Mr. President, it has been asserted by some that the Tacoma decision is a great victory for States rights. As a champion of States rights, I would only wish that were true; but it is not. I believe that Tacoma actually shrinks State authority to make decisions about their water resources; it instead gives the basic authority to the EPA. Let me explain why.

Although under the Clean Water Act it is State water quality agencies who issue the section 401 certificate, they do so pursuant to Environmental Protection Agency requirements. It can not be stressed enough that the Clean Water Act is a federal statute, administered by the States under the direction of the EPA. States are involved in the issuance of section 401 certificates only if the EPA approves the State program; otherwise the EPA issues the certificate. It is the EPA that establishes the water quality standards necessary for the State to issue such a certificate, and thus it is the EPA that determines to what extent and under what conditions the States will be allowed to exercise their federally delegated functions. In effect, then EPA gets to decide when the States will jump; the States only have the discretion to ask the EPA How high?

Tacoma thus gives the EPA, not the States, enhanced authority to prescribe restrictive requirements for water uses designated to protect fish and wildlife, recreation, aesthetics or other uses. It also gives the EPA enhanced authority to refuse to approve proposed State standards that do not adhere to EPA-established requirements. This enhanced authority to impose requirements on proposed projects and projects seeking renewals is both broad and ambiguous—but it derives from the Clean Water Act and it is in the hands of the EPA.

Since the Tacoma decision, the EPA has taken an increasingly interventionist approach to State water allocation issues. In the State of Nebraska, for example, where two hydroelectric projects are now undergoing FERC relicensing, the EPA has threatened to invalidate—and itself assume control over—the State's section 401 certification for the projects. The EPA has given strong indications that because Nebraska's stream flow allocations are determined through the State's water rights process, that the State's water quality program fails to comply with the Clean Water Act. Further, the EPA has indicated that quantitative water rights for irrigation and hydropower granted pursuant to beneficial use determinations under State law must be able to be preempted by the EPA or the State water quality agency enforcing designated uses for fish and wildlife under the Clean Water Act. What is particularly pernicious in this case is that the EPA is not concerned with health or safety, but with controlling another Federal agency's recommendations. Under the Federal Power Act, fish and wildlife agencies make recommendations for conditions in a license. The Federal Power Act requires the FERC to give equal consideration to those recommendations, but it does not require the FERC to blindly accept them. Using the Tacoma decision, the EPA is requiring States to adopt those recommendations as a part of the mandatory conditions attached to a Clean Water Act section 401 certificate, which is mandatory. The Governor of Nebraska has rightly characterized EPA's actions as a "power-grab that will concern all Western States." He is right. It sure concerns me.

Another recent example of EPA's zealous and arrogant approach is in the State of California, where EPA has sought to impose—over the objections of the State—water quantity standards for fish habitat in the San Francisco Bay Delta. Enforcement of these EPA dictated standards would restrict upstream diversions for irrigation, water supply and other beneficial uses.

In addition to these and other actions, EPA officials have publicly made clear that the agency intends to use the Tacoma decision as a way to insinuate its control over water allocation issues, in the name of watershed protection and ecosystem management, in derogation of State authority and private property rights.

It is evident that under the new Federal land and water use planning scheme envisioned by the EPA, the States' role will be rendered secondary and subordinate to EPA's centralized control. They will merely be the instrument of the EPA. It is also clear that EPA's water use determinations under the Clean Water Act will be made with little or no consideration of economic impacts or balancing of competing uses such as irrigation, water supply, and hydropower.

I am also very troubled by the Tacoma decision because it will result in duplicative and potentially conflicting

regulation of hydroelectric projects. In the Federal Power Act Congress gave the FERC the exclusive authority to license hydroelectric projects. By allowing Clean Water Act section 401 certificates to include conditions unrelated to clean water, the Tacoma decision creates a schizophrenic federal regulatory process for hydroelectric projects. One agency or the other ought to be in charge; but not both.

I am also very concerned that the Tacoma decision will encourage extreme environmental groups to demand section 401 certifications (with restrictive conditions) on Federal authorizations that are only incidental to permits for activities that may result in a discharge. An example of such an incidental authorization is a permit for a right-of-way across Federal lands for a road, pipeline, drilling rig, or transmission line that will cross a wetland. The strategic aim of these groups is to convert State section 401 proceedings into an alternative forum for conditioning or vetoing any and all Federal authorizations deemed to clash with the objectives of these particular groups. Thus, such a group recently filed a suit in Oregon alleging that a State section 401 certification is required even for Federal grazing permits, because livestock discharge into waterbodies.

This is a very troubling decision. I understand the motivation of EPA and the Department of Justice in the litigation. They are simply continuing this administration's assault on federalism and particularly on State jurisdiction and control over water resources. Secretary Babbitt has led an assault under the various land management and reclamation authorities within the Department of the Interior, and Administrator Browner is simply following that example and consolidating power within her operation. I am perplexed by the Court's decision, however, in large part because the majority opinion was written by Justice O'Connor and joined by the Chief Justice and Justice Kennedy, three persons who should have some understanding and sensitivity to Western water issues and who normally resist Federal preemption. Justice Thomas's dissent is precisely on point.

I do not have an explanation for the Court's rationale in this decision. Perhaps they simply believed the administration and thought that this was a victory for State's rights. Clearly the State of Washington did, although they were wrong, as Nebraska has found out.

I want to make clear in introducing this legislation that I am not opposed to what the State of Washington attempted to do. I believe the State of Washington should have that authority as a simple matter of its authority to grant or deny a water right in accordance with its substantive and procedural laws. I am opposed to the concept that the State of Washington can exercise jurisdiction over its waters only when some bureaucrat in EPA decides to permit it. I am opposed to using the Clean Water Act to bootstrap into mandatory conditions the recommendations of fish and wildlife agencies that are supposed to be the subject of careful consideration and balancing by FERC under the Federal Power Act. The Supreme Court was wrong when it failed to overturn First Iowa and it was wrong when it entered the Tacoma decision. Maybe the Court thought that in Tacoma it was giving the States the jurisdiction over the allocation of water that it denied them in Rock Creek and other decisions permitting First Iowa to stand. If they thought that, they were badly mistaken.

Mr. President, in large part the elections this year were a reaction to the ever increasing intrusion of the Federal Government into areas historically reserved to the States and to the continuing subversion of the concept of federalism established by the Constitution. Water rights are simply one example, although a very important one to those of us from the arid West. Government is supposed to be the servant of the people, not their master. For good or ill, the sovereign State of Washington, not the Administrator of EPA, should make the decisions with respect to the highest and best use of the waters of the State of Washington. It should not be the objective of the Federal Government to constantly experiment with new ways to test the limits of Federal authority under the Constitution.

We have come a long way since 1977 when my amendment adding section 101(g) to the Clean Water Act was passed. I submit to my colleagues that the intent of my amendment has been subverted. Again, that intent was to ensure that States' historic rights to allocate quantity and establish priority of usage remained inviolate, and that State-granted water rights could not be effectively taken away by EPA or State water quality agencies under the guise of pollution control. We have an opportunity before us now to make a choice about what the purposes and scope of the act should be. I, for one, do not believe it should be a comprehensive Federal land and water use planning statute that federalizes water use decisions in this country. This legislation would amend section 101(g), 410, and 510 of the Federal Water Pollution Control Act to clarify that the act is limited to protecting water quality and may not be used to infringe on State-granted water rights or State authority to allocate water.

Mr. President, I ask unanimous consent that a copy of the bill and a section-by-section analysis be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 2566

Be it enacted by the Senate and House of Representatives of the United States in Congress assembled,

SECTION 1.

(a) Section 101(g) of the Federal Water Pollution Control Act is amended to read as follows:

"(g) AUTHORITY OF STATES OVER WATER.—

"(1) The authority of each State to allocate quantities of water within its jurisdiction shall not be superseded, abrogated, or otherwise impaired by this Act.

"(2) Nothing in this Act shall supersede or abrogate rights to quantities of water which have been established by any State. Federal agencies shall cooperate with State and local agencies to develop comprehensive solutions to prevent, reduce, and eliminate pollution in concert with programs for managing water resources.

"(3) Nothing in this Act authorizes the regulation of quantities of water, or impairs or affects any right or authority of a State with respect to the allocation of water (including boundary waters) by such State.

"(4) Nothing in this Act authorizes an action which impairs or affects any water right established by State law, an interstate water compact, or a Supreme Court decree.

"(5) Nothing in this Act authorizes an action which respect to other matters, including, but not limited to, aesthetics, not directly related to water quality.".

SEC. 2.

(a) Section 401(a)(1) of the Federal Water Pollution Control Act is amended by adding prior to the period in the first sentence the following:

": *Provided*, That any such discharge will comply with narrative and numeric water quality criteria based on designated uses adopted in water quality standards under section 303 of this Act: *Provided further*, That such certification shall not regulate water use or water quantities".

(b) Section 401(d)(1) of the Federal Water Pollution Control Act is amended by adding "narrative or numeric water quality criteria under section 303 (not including water use or water quantities)," prior to "standard of performance", and by adding "related to such limitations, criteria or standards" prior to "set forth in such certifications".

SEC. 3.

Section 510 of the Federal Water Pollution Control Act is amended—

(a) by striking "(1)";

(b) striking ";" through "States"; and

(c) by adding at the end thereof the following: "Nothing in this Act authorizes the regulation of quantities of water, or impairs or affects any right or authority of a State with respect to the allocation of water (including boundary waters) by such State. Nothing in this Act authorizes an action which impairs or affects any water right established by State law, an interstate water compact, or a Supreme Court decree. Nothing in this Act authorizes an action with respect to other matters, including, but not limited to, aesthetics, not directly related to water quality."

SECTION-BY-SECTION ANALYSIS

SECTION 1

This section amends section 101(g) of the Clean Water Act ("the Act"), which provides that the authority of each State to allocate

quantities of water within its jurisdiction may not be superseded, abrogated or otherwise impaired by the Act, and that the Act shall not supersede or abrogate rights to quantities of water that have been established by any State. The first two paragraphs of this section essentially restate section 101(g), though with one significant difference. The new section omits the phrase that section 101(g) is "the policy of Congress". Consequently, the new section eliminates any possibility that the section merely expresses a Congressional policy that State water law and water rights should be accommodated where possible. Instead, the section is a direct statement of law and establishes a barrier between water quality and water quantities. The intent is to completely reject any assertion that there is a relation between quantity and quality and that regulation of quantity could be accomplished through regulation of quality.

This section also adds three additional paragraphs to section 101(g). The first paragraph expressly states that the Act does not authorize the regulation of quantities of water, nor does it impair or affect the authority of States respecting the allocation of water. The second paragraph expressly states that the Act does not authorize actions impairing or affecting any water right established by State law, interstate water compact, or Supreme Court decree. The last paragraph expressly states that the Act does not authorize any action concerning other matters, such as aesthetics or construction of boat ramps, not directly related to water quality.

SECTION 2

This section amends section 401 of the Act, which requires that applicants for Federal licenses or permits for activities involving discharges into navigable waters, such as a license to build a hydropower project, must obtain a certification from the State that the activity will comply with State water quality standards. Section 2 of the bill makes clear that the discharge must comply with narrative and numeric water quality criteria based on designated uses adopted in water quality standards under section 303 of the Act. The section also provides that State 401 certifications may not regulate water use or water quantities. Lastly, the section clarifies that the limitations set forth in the State certifications, which become conditions of the Federal license or permit, are restricted to narrative or numeric water quality criteria under section 303 of the Act.

SECTION 3

This section amends section 510 of the Act, which concerns State authority. The amended section provides that nothing in the Act authorizes the regulation of quantities of water, or impairs or affects any right or authority of a State concerning the allocation of water by the State.

In addition, this section provides that the Act does not authorize any action impairing or affecting any water right established by State law, interstate water compact, or Supreme Court decree.

Finally, this section provides that nothing in the Act authorizes any action with respect to other matters, such as aesthetics, not directly related to water quality.

ADDITIONAL COSPONSORS

S. 531

At the request of Mr. CRAIG, his name was added as a cosponsor of S. 531, a bill to amend the Internal Revenue Code of 1986 to increase the estate and gift tax exemption from $600,000 to $1,000,000.

S. 613

At the request of Mr. WELLSTONE, his name was added as a cosponsor of S. 613, a bill to prohibit the importation of goods produced abroad with child labor, and for other purposes.

SENATE RESOLUTION 286—RELATIVE TO THE RELIEF OF LAND GRANTORS IN HENDERSON, UNION, AND WEBSTER COUNTIES, KENTUCKY, AND THEIR HEIRS

Mr. FORD submitted the following resolution; which was referred to the Committee on the Judiciary:

S. RES. 286

Resolved, That the bill (S. 2563) entitled "A bill for the relief of land grantors in Henderson, Union, and Webster Counties, Kentucky, and their heirs", now pending in the Senate, together with all accompanying papers, is referred to the Chief Judge of the United States Court of Claims. The Chief Judge shall proceed with the same in accordance with the provisions of sections 1492 and 2509 of title 28, United States Code, and report back to the Senate, at the earliest practicable date, giving such findings of fact and conclusions that are sufficient to inform Congress of the amount, if any, legally or equitably due from the United States to the claimants individually.

SENATE RESOLUTION 287—TO EXPRESS THE SENSE OF THE SENATE REGARDING REGULATION OF MERCURY HAZARDOUS WASTE

Mr. WELLSTONE (for himself, Mr. LEAHY, and Mr. JEFFORDS) submitted the following resolution; which was referred to the Committee on Environment and Public Works:

S. RES. 287

Whereas there has been a 2- to 3-fold global increase in mercury in the environment since the 1850's, increases of 3.4 times have been found in wilderness areas of the United States, and much higher increases have been found in developed areas of the United States;

Whereas mercury is truly a national and international concern because mercury is atmospherically transported indiscriminately across political boundaries;

Whereas mercury poses a serious and growing public health and environmental problem even when released in minute quantities;

Whereas mercury presents particular problems in aquatic systems where mercury bioaccumulates;

Whereas human consumption advisories have been issued in at least 34 States because of the high level of mercury contamination in fish, resulting in losses to the tourism and fishing industries and related activities;

Whereas atmospheric deposition resulting from human activities, including waste disposal, contributes most of the mercury loading to the environment;

Whereas numerous studies have indicated that mercury-containing lamps will soon become the largest contributor of mercury to municipal waste streams in the United States;

Whereas the United States, through the Environmental Protection Agency, is working cooperatively within the international community to reduce global risks of mercury in the environment;

Whereas the Environmental Protection Agency is already actively supporting efforts to virtually eliminate releases of mercury in the Great Lakes Region; and

Whereas the waste management priorities of the United States encourage recycling before waste disposal: Now, therefore, be it

Resolved, That it is the sense of the Senate that the Environmental Protection Agency should not exempt mercury hazardous wastes from hazardous waste regulation but instead should adopt waste management policies and rules that seek to minimize all releases of mercury into the environment while encouraging the recycling of mercury-containing fluorescent lamps and other mercury-containing devices.

Mr. WELLSTONE. Mr. President, today I would like to draw the Senate's attention to something that is going on at the Environmental Protection Agency that is of great concern to many of our House and Senate colleagues and myself. As one of two alternatives, the EPA has proposed to allow light bulbs containing a highly toxic material to be dumped in regular solid waste landfills. That material is mercury.

Now let me just state for the record that mercury is the target of major effluent reduction efforts. In the Great Lakes Region, mercury has been labelled a "Critical Pollutant." In October 1993, the Regional Administrator for EPA Region 5 wrote EPA headquarters opposing this proposal. There are now at least 34 states that have issued fish consumption advisories because mercury contamination is evident in the food chain.

So why is EPA now proposing to grant an exemption for mercury-containing light bulbs from EPA's own hazardous waste rules? What is special about these products? Under EPA's own protocol, these bulbs qualify as hazardous waste, so why would EPA propose to let them be dumped in regular solid waste landfills and not be handled as other hazardous wastes are?

Not surprisingly, General Electric (GE) and the National Electrical Manufacturers Association (NEMA) are strongly supportive of EPA's deregulation proposal. It would save GE's commercial customers from having to add the cost of environmentally sound disposal into their light-bulb buying budget's.

Mercury contamination is a major problem in my home state of Minnesota. We are lucky to have thousands of fresh-water lakes, with some of the best fishing in the country. In many of our lakes, you can drink the water. But don't eat too many of the fish. They tell you when you go to the Boundary Waters Canoe Area Wilderness that in some lakes you should limit the number of fish you eat over a certain size.

The bigger, older fish tend to have a greater accumulation of mercury.

So in Minnesota we take mercury, and the products that contain mercury, very seriously. We have a thriving recycling industry that collects our mercury-containing light bulbs. We are trying to keep mercury out of our waste stream.

But mercury pollution, caused when mercury evaporates and is carried in the air, does not respect state boundaries. That is why we have a federal environmental agency: to set minimum standards to address a national and global problem. Each state benefits from the positive environmental practices of other states, and when the EPA removes a nationwide protection, even the states with the best protections will suffer. If EPA deregulates mercury-containing light bulbs, my state of Minnesota—and perhaps the states of some of my colleagues, too—will be harmed.

Now, in EPA's two-part proposed rule, the agency also provides an alternative to exempting mercury-containing light bulbs from hazardous waste regulations. That alternative is to include these bulbs in the "universal waste rule." In a nutshell, the universal waste rule was designed to address the problem of regulating widely used household items that qualify as hazardous waste. The scheme entails a significantly lower burden on generators of the waste, while still encouraging recycling and keeping the products out of the municipal solid waste stream.

We are doing something like this in Minnesota, and it is working well. Taking a cue from Minnesota, the EPA ought to choose the universal waste rule option.

Today I am submitting, along with Senators LEAHY and JEFFORDS, a resolution stating that it is the Senate's view that EPA ought not to exempt mercury-containing hazardous wastes from hazardous waste regulations. Rather, EPA ought to adopt waste management policies that seek to minimize all releases of mercury into the environment while encouraging the recycling of mercury-containing products. On Tuesday, my colleague Representative SABO submitted a similar resolution in the House.

Over 20 Members of the House and Senate have signed a letter transmitting comments on the EPA's proposed rule to EPA Administrator Carol Browner. I ask unanimous consent that this letter be printed in the RECORD.

Obviously, the Senate will not have time to act on this resolution before adjournment. The purpose of submitting the resolution is to draw my colleagues' attention to the issue. Many of us are opposed to the exemption option, and we want to say that loud and clear. Our comments have been sent to the agency. We will be watching this matter very closely and expect to revisit it next year.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

CONGRESS OF THE UNITED STATES,
November 29, 1994.

RE: Comments on EPA Docket No. F-94-FLEP-FFFFF

Hon. CAROL M. BROWNER,
Administrator, Environmental Protection Agency, Washington, DC.

DEAR ADMINISTRATOR BROWNER: In the Federal Register of July 27,1994 (59 Fed. Reg. 38,288), the Environmental Protection Agency (EPA) proposed two regulatory alternatives, one of which would worsen the already serious mercury environmental and public health problem in this country.

We are writing to express our strong opposition to one of those alternatives: EPA's proposal to exempt mercury-containing lamps from hazardous waste regulations. The exemption would allow over 500 million hazardous waste lamps to be disposed into solid waste landfills each year and would perpetuate uncontrolled releases of mercury into the environment.

We believe that such a proposed exemption is inconsistent with both national policies and global efforts to reduce risks from mercury. Instead, we urge EPA to adopt the "universal waste" alternative, designed to streamline the regulations to foster proper hazardous waste management, including recycling, while maintaining important environmental safeguards for mercury.

Mercury poses a serious and growing public health and environmental problem even when released into the environment in extremely small quantities. This is especially true in aquatic systems, where mercury bioaccumulates. For example, at least 34 states have issued human consumption advisories or consumption bans because of unacceptable levels of mercury in freshwater fish.

Mercury is truly a national and international concern because it is atmospherically transported indiscriminately across political boundaries. Therefore, states with more stringent environmental requirements cannot prevent mercury releases from outside their borders from contaminating their waters. Without the adoption of national regulations, states will continue to experience public health and environmental problems and losses in their tourism and fishing industries.

We believe that is would be irresponsible for EPA to exempt lamps from the hazardous waste regulations because of the detrimental environmental impacts of mercury. Furthermore, the municipal solid waste regulatory system is not designed to prevent releases of mercury into the air and water, and wastewater treatment facilities are not designed adequately to treat and dispose of mercury in landfill leachate. In addition, land-spreading of leachate is a common practice which also results in dispersion of mercury to the environment.

It is our strong belief that such an exemption by EPA for a waste determined hazardous by EPA's own testing protocol would set an extremely bad precedent. It would also send out the wrong message to the general population that uncontrolled releases of mercury into the environment are not a significant problem. In addition, the exemption alternative would greatly discourage lamp recycling, since disposal in solid waste landfills would be by far the least costly disposal option. Further, the exemption alternative would be a disincentive for manufacturers to reduce the amount of mercury in lamps.

However, experience in states with lamp management regulations demonstrates that universal waster-type management requirements for spent mercury-containing lamps result in significant increases in lamp recycling, create awareness about the health, safety and environmental concerns related to mercury, produce new jobs and do not diminish relamping under EPA's Green Lights" programs. In addition, EPA's own data show that the cost of either lamp recycling or hazardous waste management represents only a small percentage of the total cost of relamping and that relamping under the universal waste option would continue to be extremely cost-effective.

Clearly, choosing the universal waste option for managing lamps would support both our national waste management priorities and pollution prevention policies and would remain consistent with current EPA activities designed to minimize or eliminate mercury pollution. At the same time, adopting the universal waste option for lamp management would uphold the United States' commitment to international efforts to reduce uncontrolled releases of mercury and global risks from mercury.

We urge the EPA to choose the universal waste option in promulgating its final rule on mercury, containing lamp regulation. The exemption alternative is not supportable on environmental grounds and should not be adopted.

Sincerely,

Paul D. Wellstone, Patrick J. Leahy, David Pryor, Martin O. Sabo, Charlie Rose, James Jeffords, Dale Bumpers, Russ Feingold, Esteban E. Torres, Bruce F. Vento.

Joe Moakley, Bern Sanders, James L. Oberstar, John Lewis, Gerry E. Studds, Wayne T. Gilchrest, David R. Obey, Ed Markey, Henry A. Waxman.

Tony Beilenson, David Skaggs, Eric Fingerhut, John W. Olver, Ron Wyden, Edward M. Kennedy, Carl Levin, Daniel Moynihan, Bill Richardson.

AUTHORITY FOR COMMITTEES TO MEET

SUBCOMMITTEE ON FEDERAL SERVICES, POST OFFICE, AND CIVIL SERVICE

Mr. MOYNIHAN. Mr. President, I ask unanimous consent that the Subcommittee on Federal Services, Post Office, and Civil Service, Committee on Governmental Affairs, be authorized to meet during the session of the Senate on Wednesday, November 30, 1994, to review labor management relations at the Postal Service.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

LOVE OF NEIGHBOR FALLS BY THE WAYSIDE—PUBLIC LIFE DOMINATED BY A MEAN-SPIRITED SELFISHNESS

• Mr. SIMON. Mr. President, all of us in the Senate recognize we are suffering a loss when our colleague, Senator JOHN DANFORTH, retires.

Sometimes we differ with him on issues, but we always respect him.

Recently, he gave a farewell sermon at the St. Albans Episcopal Church in

Washington, and the St. Louis Post-Dispatch condensed that sermon and published it on its editorial page.

Because it speaks to people of goodwill of every religious persuasion and talks about the need to move away from a mean-spirited selfishness, it is a message that needs to be heard today.

I do not recall personally an election which has been as negative as the one we have just passed through. And unless many of us speak out, it will become worse.

Self-restraint is essential for a democracy to function.

That applies to those of us in public office, those who seek public office, to the media, and to the public-at-large.

I ask that the Danforth statement be printed in the RECORD at this point.

The statement follows:

[From the St. Louis Post-Dispatch, Nov. 6, 1994]

LOVE OF NEIGHBOR FALLS BY THE WAYSIDE—PUBLIC LIFE DOMINATED BY A MEAN-SPIRITED SELFISHNESS

(Thou shalt love they neighbor as thyself.—Mark, 12:31)

(By John C. Danforth)

Because an election is only days away, I want to talk this morning about politics. And because the Gospel included the love commandment, I want to talk about the love commandment and the connection, if there is any, between politics and the love commandment.

But especially, I want to talk about you, because so often people have said to me, "what is the connection between your religion and your politics?" And I want to turn that around and ask it of those of you who are not in politics as a daily routine, people who don't hold any office. I want to ask, "What is the relationship between politics and religion to you, in connection especially with the love commandment?"

And the reason it's appropriate to ask the question of you is that whether you want to be or not, you are very much a part of the political scene in our country. A lot of people say that, "Well, politicians are out of touch. They just don't know what is going on. They're distant, they're inside the Beltway, they don't understand."

That is not true.

Politicians have never been as in touch as they are today. It is a technological possibility to be totally in touch with constituents. Not just because travel and mass communication make contact very easy, but also because the business of politics has become a science. It's possible to test what it is that makes people really mad and then use those words. It is possible to take public opinion polls within a margin of error of about 3 percentage points and know exactly what is on people's minds.

So what is done in politics is done because it's been tested with the public. It's been tried out.

And what the professionals are hearing from the people is something quite different from the love commandment. What politicans are hearing from the public is not "love your neighbor." Why do you think in the state of California the issue of immigration is the biggest campaign issue? It is not because the politicans of California are hearing from the constituents, "Love your neighbor."

How about the nature of political campaigns themselves? It is believed by a lot of people that political campaigns are dirtier than ever. Every two years we say it can't get any worse. And then we find out, yes, it can. And it is. The nature of political campaigns has changed dramatically in the last 25 years. They are more vicious than ever. Why is that, do you thnk? The answer is, negative campaigns work. If you want to run a positive campaign, you will almost never win.

We are not hearing from the public, "Love your neighbor." We are hearing, "Hey, this is kind of neat." We are hearing, "I love myself."

People in politics listen to the public. And what people in politics hear, and what people in politics try to respond to is "Gimme, gimme." And so we have organized ourselves into interest groups trying to grab what we can for ourselves. And when we can't get it, or to justify the grabbing, we like to believe, we want to believe, that we're victims. "I'm not being treated fairly. I'm not getting my just deserts." What's happened to the love commandment in politics?

And I think on the other side of the coin there is a tendency to believe that, yes, there is a requirement placed on us to love our neighbors, but it is a requirement that doesn't really involve us individually; it's something that can be discharged through a political program. A clergy friend of mine told me a long time ago every time he goes to any kind of clergy meeting dealing with some social problem, the meeting always concludes by everybody resolving to go home and write their congressman a letter. That's it. Well, we've got a problem; well, let's write our congressman.

And, of course, one of the problems with this is that it is a way to discharge your own sense of responsibility. But in addition to that, to the extent that your religious commitment is embodied in a political agenda, to the extent that a political agenda can be identified with a religious commitment, then the political position is infused with all kinds of religious meaning. And this is happening now.

What can you do about politics consistent with the requirement upon you to love your neighbor as yourself? I think the first thing you can do, and I can do, and all of us can do is to be a counter voice to all the meanness that is going on now. I think that you and I can speak out against political campaigns as they exist today. I think that when you and I see a human being have a perfectly fine life turned to ashes, we can say that's wrong.

When we hear a talk show host destroy a human being, we can pick up the phone and we can say that's wrong. We can show up at town meetings where politicians are, and we can say that we resent that, that's wrong. This person is a human being and whether we agree with this individual or not, this is a child of God who should not be destroyed. This is a person with a family, with children. And it's not right. And we can do that.

Another thing we can do: We can be people who look beyond our own interests. That is not to say that we are not going to be interested in ourselves; that's human nature. We can be something other than just members of interest groups. We can be the leaven in the lump of politics.

Christians are called to look beyond themselves. We can be people who, in the political world, look beyond ourselves to our neighbors to the larger world and the larger country beyond ourselves. We can call our country and call our politicians to do more than simply pander to our own narrow economic or personal interests. We can do that.

And finally, we can understand as Christians that there is and will always be a vast difference between the requirements of the love commandment and any political agenda that can ever be developed.

The love commandment is absolute. No political program is an absolute. All of it is compromise. The legislative process by its nature is compromise. The American system of government is compromise, not by accident, but by design.

Any time you have something built on compromise, the political programs are going to be more or less good or more or less bad and probably a mix between the two. And when they're implemented, the implementation is going to be a far cry from whatever it was ever designed to be in the first place.

And we can say to people who try to infuse a political agenda with religion that God's ways are not our ways. And we will never create a political agenda which is the equivalent of the will of God or a political agenda which is capable of discharging the requirement that is placed on each of us to love our neighbors.

When Jesus was asked, who is your neighbor, his response was to tell the story of the good Samaritan. The point of the story is to talk about who is a neighbor to that poor soul who is beside the road.

But a question I have is, well, what was wrong with the priest, what was wrong with the Levite? Were they just mean people? Were they insensitive people who didn't care? They were probably perfectly sensitive people. But they probably thought that somebody else was coming along. "I can afford to pass the other way because somebody else will come along or maybe after I pass the other way I can write a letter to my congressman and my congressman will pass a law and something will be done about this poor devil."

I don't think we can delegate responsibility like that. I don't think we can delegate responsibility to any political program. I don't think we can count on anyone to do for us what we are commanded to do. It's our responsibility to apply the love commandment. And we should try to do it in politics and we should try to do it with respect to all the nastiness that's out there today. And we should try to do it by getting some sort of rein on our own self-interests, and looking beyond ourselves. And we should try to do it by recognizing the difference between the love commandment and our own political agenda.

But in the end, the responsibility is really on us, the people, you, me, to do the work of loving our neighbors as ourselves.●

TRIBUTE TO LT. COL. JOHN M. MOLINO

● Mr. COATS. Mr. President, I rise to recognize the dedication, public service, and patriotism of Lt. Col. John M. Molino, U.S. Army, on the occasion of his retirement after 20 years of faithful service to our Nation. Colonel Molino's powerful contribution to personnel policy helped construct the highest quality military force in the history of our armed services. His strong commitment to excellence will leave a lasting impact on the vitality of our modern warfighters, commanding admiration, and respect from his military colleagues and Members of Congress.

Colonel Molino is a native of New York City. He was graduated from Saint Peter's College, Jersey City, NJ, and was commissioned a second lieutenant in the U.S. Army in May 1974. In his first duty assignment, Colonel Molino served as the executive officer in a basic training company at Fort Knox, KY. While at Fort Knox, he also served as battalion operations officer and chief of protocol. From the earliest days of his career, Colonel Molino displayed extraordinary commitment to the care and nurturing of young troops. These powerful traits served as the basis for the success he would enjoy later in his career.

As a plans officer in the mobilization branch at the Reserve Components Personnel Center, St. Louis, MO, in 1979, Colonel Molino helped craft a system for the recall of retirees in the event of national emergency. This innovative system was eventually used during Operation Desert Storm. After receiving his masters degree in 1981, he served for 3 years in the 25th Infantry Division, Hawaii, as the chief of personnel management and, later, as the chief of military personnel actions. In this capacity, Colonel Molino was responsible for virtually all personnel actions for 10,000 people. While with the 25th, he developed a revolutionary program to encourage the reenlistment of only the most qualified soldiers. The Army touted this highly effective program as the best of its kind.

With a 1984 assignment to the Army's personnel center, Colonel Molino began an extended tour of duty in the Washington, DC area. This crucial period is characterized by assignments of increased responsibility on the staff of the Joint Chiefs, the Office of the Secretary of the Army, and finally, the Office of the Secretary of Defense.

Most recently, Colonel Molino was assigned as the special assistant for personnel and reserve affairs, in the Office of the Secretary of Defense [legislative affairs]. He served as the focal point for communication between the Department of Defense and the Congress on policies relating to personnel; compensation and benefits; morale, welfare, and recreation; family services; and training and education. In this critical position, Colonel Molino's consummate leadership, intellect, and integrity ensured clear communication between these two preeminent institutions. Working closely with the Congress, Colonel Molino helped obtain necessary House and Senate approval for vital personnel programs, directly contributing to future readiness and success of our troops in the field.

Colonel Molino's awards include the Legion of Merit, the Defense Meritorious Service Medal, the Meritorious Service Medal, the Army Commendation Medal, and the Army Superior Unit Award. The colonel has also earned identification badges from the Office of the Secretary of Defense, the Joint Chiefs of Staff, and the Army General Staff. Additionally, during his Army career, Colonel Molino was also graduated from the Armed Forces Staff College and completed the Adjutant General's Officer Advanced Course and the Armor Officer Basic Course.

Our Nation, the U.S. Army, his wife Eileen, and sons Bill, Chris, and Matthew, can truly be proud of the colonel's many accomplishments. A man of his extraordinary talent and integrity is rare indeed. While his honorable service will be genuinely missed in the Department of Defense, it gives me great pleasure to recognize Colonel Molino before my colleagues and wish him all of our best wishes in his new and exciting career.●

AFRICAN GOTHIC

● Mr. SIMON. Mr. President, in the magazine Vanity Fair, there is an article by Christopher Hitchens about the African scene.

The article is, in my opinion, unduly pessimistic, but it brings a grim reality about much of Africa that is accurate. And it shows that we ought to be paying more attention to Africa. And by "we" I mean the United States and the other industrial nations.

The continents of the world are gradually increasing their standard of living and quality of life, with the exception of Africa. That can change, but Africa needs assistance to change it.

Listen to this paragraph in the Christopher Hitchens article:

Statistics do their usual job of confirming initial impressions. Of the 20 most impoverished nations in the world, 18 are in Africa. Per capita GNP declined at the rate of almost 2 percent per year in the 1980's. Though it contains one-eighth of the world's population, the continent's share of world trade had dipped to just above 2 percent. But these paltry 2 percents balloon into terrifying figures when the downside is being measured. The sub-Saharan African debt was 110 percent of the total GNP of all its nations in 1991. Of the people diagnosed as having the AIDS virus, two-thirds are in Africa.

The other side of the picture is that democracy is spreading in Africa.

Christopher Hitchens does look at Eritrea, one of the brighter spots. Attention could have been paid to Botswana, Namibia, South Africa, and other nations with better news.

Angola may be on the verge of signing a peace agreement, and if it holds, within 10 years, you will see a fairly dramatic improvement in the quality of life of the people of Angola, if the government and the opposition forces use self-restraint.

I ask that the Christopher Hitchens article be printed in the RECORD.

The article follows:

AFRICAN GOTHIC

(By Christopher Hitchens)

Whoever he was, and whatever happened to him, he will certainly never read this. He was clad in nothing but an outfit of ragged trousers, and he was being pulled across the road by a half-dozen other men. If it hadn't been nighttime I might barely have noticed, but there isn't much street light in Kinshasa after dark, and your headlights make a tableau of anything that's visible. There was a shantytown hunched in blackness on one side of the pitted street, and another shantytown slumped on the other side, and the gang needed or wanted to drag the guy from the first to the second. He looked as if he badly didn't desire to cooperate. My driver floored it as soon as he took in the scene, and as the pickup shot past I could register the external details: mouth open in a wordless yell, eyes rolling in the face, muscles and tendons bent in resistance—a man headed for some unnameable appointment.

In the capital city of Mr. Mobutu's Zaire, whom was I going to call? The police? Even if the rugged-looking crew didn't turn out to *be* the police, the telephones have been out these many years. And no Zairean, such as the pickup driver from whom I'd hitched the ride, would think of intervening in such a macabre but routine sideshow.

Anglo-Saxon tribal lore tells the parable of the sparrow that flies into the dining hall at night, flutters about for a moment, and then wings out again. Its brief time in the light, and the darkness from which it comes and to which it goes, provides the allegory of a human life. I know less about that Zairean's life than my forefathers knew about the sparrow's. And Africa today is relayed to the rest of the world in similar fashion, by brief and sad or shocking images that stay for a moment on the retina before fading away again. The swollen infant, the milkless mother, the hoarse, red-eyed street fighter or jungle combatant, the operatic dictator, the chaotic and miserable crowd—these are the Africans we feel we "know."

And while images from the rest of the world are grim enough in all conscience, there can be something weird and neolithic about African traumas. General Idi Amin *did* keep human heads in his freezer. Samuel Doe of Liberia *was* videotaped having his ears cut off by the transition team of the incoming administration. Murders in Rwanda and Somalia were, perhaps, not morally different from or worse than murders in Bosnia or Ulster but seemed somehow more primitive, carried out as they were with clubs and axes, or with bare hands and by dancing, gibbering crowds.

Moreover, run the rule across Africa and see if you can find, anywhere in the entire forsaken continent, anything like a success story. The economies are used to scare the children of World Bank officials. (When I was last in Zambia, there was a national day of prayer for the local currency. Prayer was not answered.) The famines, plagues, and epidemics are, from old-style locusts to ultra-modern AIDS, the most sweeping and devastating. The clan wars and the wars of religion are the most bitter and pitiless. Human life is at its nastiest, most brutish, and shortest.

Statistics do their usual job of confirming initial impressions. Of the 20 most impoverished nations in the world. 18 are in Africa. Per capita G.N.P. declined at the rate of almost 2 percent per year in the 1980s. Though it contains one-eighth of the world's population, the continent's share of world trade has dipped to just above 2 percent. But these paltry 2 percents balloon into terrifying figures when the downside is being measured. The sub-Saharan African debt was 110 percent of the total G.N.P. of all its nations in

1991. Of the people diagnosed as having the AIDS virus, two-thirds are in Africa.

As I embarked on my voyage from the Horn of Africa southward, crossing the continent at its tip and working my way back up the western coast. I had every chance to get bored by the stock farewells. "Take care in darkest Africa/the dark continent/the heart of darkness . . ." No wonder people are so fond of Nelson Mandela—he's practically a Westerner.

Almost all current writing about Africa depends on a blend of Joseph Conrad and Evelyn Waugh: the brooding, throbbing stagnation of the Congo and the sinister farce of egomaniacal "Afrocentric" politics. (V. S. Naipaul is sometimes successful in achieving a literary synthesis of the two). In no country is this journalistic temptation harder to resist than in the original Congo itself (now pointlessly renamed Zaire), where I had my haunting brief encounter on the roadside. Here, where Conrad's river could be like the Mississippi, the Yangtze, the Rhine, or the Mekong-a great waterway of trade—you find instead a huge, sweltering ditch, studded with eroded hulks and sunken barges in which, as in every crevice of African decay, some wretched people have tried to scratch out a home. Attempting to make sense of my chance sighting of the man I couldn't help, I struggled to widen the small pool of light in which I'd glimpsed him.

Great place, Zaire. It's as large as the United States east of the Mississippi, and it's the second-largest French-speaking country in the world. It has colossal resources, built as it is on vast reefs of copper, cobalt, and diamonds, to say nothing of its immense river network and its wealth of game and arable land. It has been the recipient of tremendous generosity from every kind of lending institution. It could have broken out of the "Third World" a generation ago. But instead it became a demonstration case of the deliberate uses of underdedvelopment—something neither Waugh nor Conrad bothered even to imagine.

Initiation begins at the airport. International airlines will not let their aircraft spend a night in Kinshasa, because they are not sure the planes will still be there in the morning, and because no insurance company in the world will cover them for the stopover. As I stepped off the plane, I was grabbed and surrounded on the tarmac between the stairs and the "terminal." My passport was seized by one official—at least he said he was an official—while a brisk auction of my belongings was begun by other, rival bureaucrats and assorted freelances.

The filthy, airless arrivals building was awash with garbage and pools of fetid water, as well as with predators of all kinds who, I later learned, were off duty cops in search of an income supplement. If not for the aid of a big and kindly Zairean doctor I had met on the plane, I might be there still. And not even he could get me out of the parking lot, which was a wasteland of rusting cars and jagged potholes. The uniformed goons of the Zairean army, guns and bayonets to the fore, simply placed their jackboots against the doors of the creaking and springless taxi, preventing the driver from getting behind the wheel until he had handed over a wad of dirty bills. This tax is passed on to the consumer, as I later found.

One of the soldiers, very much the worse for drink, insisted on getting into the taxi so as, he explained, to guarantee my safety on the ride to the hotel. Upon arrival he demanded $1,500 in cash for the privilege, and followed me angrily into the lobby when I refused to pay. His breath was undoing my tie. Nobody in the hotel offered to take my side.

General Mobutu Sese Seko, the cunning bandit who presides over the country (his titles variously translate as "the cock that leaves no hen untouched" and "the all-powerful warrior who, because of his inflexible will to win, goes from conquest to conquest leaving fire in his wake"), is not a subtle man. One of the main streets in his capital is named for Emperor Bokassa, the deposed tyrant of the neighboring Central African Republic, who practiced cannibalism and murdered hundreds of schoolchildren who refused to wear his choice of uniform. In the eastern part of Zaire, a large stretch of water is named in honor of Idi Amin.

I quote from a brochure of the state tourism industry: "Thanks to the great number of hippos, the fish in Lake Amin benefit from a rich and abundant diet provided by their excrement." The same point is emphasized a little lower down: "Lake Idi Amin Dada, extraordinarily rich in fish thanks to the defecation of a myriad of lake hippos." One wants to picture the planning meeting. "Tourism is slow. The numbers are down badly. We can't do much about the airport. But what if we offer them a fish dinner, stressing the hippo shit and reminding them twice of the enticing name of the lake?"

I thought that the author of Scoop and Black Mischief could have made something of that. And Conrad would have had no difficulty recognizing the rotting, crashing decay of the equatorial interior. When the Belgian colonists departed in 1960, the country could boast 88,000 miles of decent road. By 1985, this had contracted to 12,000 miles, of which only 1,400 were paved. Today, the smallest trip outside Kinshasa requires an all-terrain vehicle. The back country and the forest have lost all connection with the capital and the coast.

To this, however, can be added some strictly modern horrors. I spent part of an afternoon at the suburban villa of Etienne Tshisekedi, the veteran opposition leader, who, on the previous day, had been subjected to an attack by one of Mobutu's private militias. The windows in his study had been shot out, and a litter of grenade shells and cartridge cases had been collected by supporters as evidence. Here was a scene recognizable from Bosnia or El Salvador or Lebanon: the civilian and nontribal politician trying desperately to survive in a welter of mayhem and superstition.

In the garden, a large black cock was playing a vicious game of cat and mouse with a crippled frog, something I didn't know poultry had the wit or the cruelty to do. As the pecking torture went on, I listened to aides of Tshisekedi, who was legally made prime minister in 1991 and who enjoys vast popular support, but who—if only because he can hardly leave his home—is failing to make any headway against the vast corruption and lawlessness of the Mobutu state. "Our leadership comes from every main national group and tribe, while Mobutu's entourage is all from the Ngabandi clan," I was told by Frederic Kibassa, one of the toughest and most outspoken of the dissidents. "Mobutu's political family is corrupted through and through." Estimates by Western diplomats of the private fortune Mobutu has hijacked from the central bank fluctuate between $4 billion and $11 billion: "At any rate," an American envoy to the country told me, "he could clear the national debt by writing a personal check."

But Mobutu's larger achievement is to have corrupted an entire society and made it complicit with beggary, embezzlement, and theft. An elevator attendant in one run-down government ministry wanted a bribe to take me from the 18th to the 19th floor. Passport Control extends an imperative palm just as your plane is boarding. Policeman farm their beats. I was detained with my photographer companion, Ed Kashi, as we tried to get some pictures of the Congo river bank; two separate teams of police and customs officials disputed the extortion rights over us and threatened to take the camera equipment before settling for a compromise price. "I am afraid, Mr. Christopher," said my guide sadly at one point, "that my country is a jungle. A jungle." This was no sarcastic white settler talking with condescension about Mau Mau land. It was a man genuinely embarrassed by the abject shame of his country.

He actually said this to me after he'd shown me the Kinshasa zoo. I had not especially wanted to go, since I'm fed up with reading articles that describe Africa as being either a safari park or an elephants' graveyard, but I soon understood why he wished me to see it. After being contemptuously fleeced by a couple of bored gatekeepers, we were admitted to a tiny hell. Baffled bears with sore-covered muzzles were moldering in dirty, waterless pens. A scrofulous eagle sat in a dropping-spattered cage. A lioness sported a suppurating stump where her tail had been.

It was the very essence of a country that has forgotten self-respect and that cannot be bothered to safeguard even its natural patrimony of charismatic wildlife. As we drove sadly away, my Zairean friend still apologizing for the wreck and squalor, we passed a few roadside food stands where sat clutches of roadkill vendors. You could get a squashed fox for a few grubby bills, and some live pangolins were being roughly handled for curious potential buyers. Everything was coarse, brutal, and cheap, and nothing worked. It wasn't just worse than when the much-hated Belgian racists had departed. It was worse than before colonialism began at all.

Portuguese explorers in the first decade of the 19th century reported on the kingdom of Kazembe, which occupied the part of Zaire now called Shaba or Katanga Province. The kingdom, they said excitedly, was "rich in food and strongly governed." Today, malnutrition is a leading cause of death among Zairean children, and a warlord system runs Shaba Province. The once fabulous mining operations have been virtually shut down, as the skilled Baluba workers, who knew how to run them, are being ethnically cleansed from the area.

"Don't be deceived by the chaos," said one experienced Western businessman. "Mobutu likes it this way. With hyperinflation it's easy for foreigners to make money, and it's the cut from foreigners that fills his pockets. With no roads, the army can never topple him. With no communications, the opposition can never organize. With total corruption, it's every man for himself and people can be picked off one by one." The uses of underdevelopment.

As I went around the markets and streets of Kinshasa, I was often asked if I was French. This was not a compliment to my poor usage of the tongue, and it wasn't asked in a friendly way. What people turned out to mean was that if I was French they wouldn't talk to me. Popular hatred of France for its open support of Mobutu exceeds even the dislike of the C.I.A. for installing him, in a coup in 1965, in the first place. The French intervention in Rwanda was widely seen as a

scheme to help both Mobutu and the blood-stained Rwandan officers who carried out the genocide of last April. After the bodies of hundreds of thousands of Rwandans left their country by way of the river system, the embalmed corpse of Rwandan president Juvénal Habyarimana was unloaded at Kinshasa airport by the very officers who had used his death as a pretext for massacre. Even as they broadcast appeals for panic-stricken Rwandans to flee to the nightmare of the Goma refugee camp, they themselves were setting up shop in Zaire's finest hotels and most fragrant banks. Mobutu's soldiers, meanwhile, were robbing the refugees at the frontier and charging international relief aircraft 300 bucks a flight—cash—for the privilege of using the Goma strip. I could have warned them.

Several times I was told that "what happens in Algeria will happen here"—that soon foreigners would be killed on sight. The Zairean people are probably too gentle and too welcoming, as individuals, ever to make good on such threats. But there is an almost bottomless well of humiliation and frustration to draw upon, and though episodes of violence have been infrequent, they have been very ferocious. The certainty in any case is that if things do turn nasty we will see Zaireans in the raw, untreated state in which their fellow Africans are presented to us now—stripped of cover and dignity and occupying certain well-worn categories. The Refugee. The Beggar. The Slum Dweller. Just like the nameless man who was dragged across my headlamps.

But now take another look at that guy. There's no God-given reason why he isn't dressed in a good suit of clothes, supporting his family by working for a thriving mining company at a standard of living higher than that of southern Italy or northern Portugal. Or why, on weekends, he isn't taking the children on a cruise upriver, perhaps to see a well-run game park or maybe to explore the wonders of the rain forest, where careful and judicious logging provides a healthy income to farmers who would otherwise move hungrily to the townships, while preserving the canopy and the older growths for—among other things—innovative research into tropical medicine.

This is no Utopian area. The material conditions for this other Zaire already exist. And there are men and women qualified to administer it, except that they tend to be either in prison or abroad. (In the 1980s, at least 100,000 educated and professional Africans fled the continent.) The current situation is almost completely determined by outsiders, who have shored up Mobutu as a "friendly power," who have bought the raw materials cheap, who have supplied the guns and trainers to the swollen and unnecessary army, and who have set the percentage rate at which Zaireans will work—or not work—to repay their debt. If the "new globalism" means anything, it means that, outward appearances to the contrary, the man I saw is part of the same political economy as I am.

The fact is that, unfair as it may seem, Africa desperately needs that success story I mentioned earlier. Not everyone is as crude as the late Richard Nixon, who confided to H.R. Haldeman that American blacks were no good because Africa itself was no good and had never produced a workable or civilized society. ("The worst," he added viciously, "is Liberia, which we built.") In common with far too many educated people, Nixon knew less about Africa than he did about the north face of the Eiger. But his cynicism finds a partial echo in the weariness with which rationalizations for African failure are received.

Yes, we know that colonialism was devastating and disruptive. Yes, we know that the political borders of Africa make no sense and were drawn without regard to human reality. Yes, no doubt the international-trade deck is stacked against African products. But does this explain why there is still slavery in Mauritania and southern Sudan (often but not always Islamic enslavement of Christians, and what do Mr. Farrakhan's Black Muslins have to say about that?)? Does it explain why millions of young girls are genitally mutilated? Does it explain why the Wa-Benzi—a brilliant street term for the local class that rides in the imported Mercedes limousine—are greedier and less productive than any privileged elite in Asia or Latin America?

Like my Zairean guide, who referred angrily to his country as a jungle, Africans are often their own sternest critics. In the Ivory Coast, where I attended a conference of political parties, the chairman of the meeting, Achi Koman, gave me a copy of his pamphlet. It turned out to contain a long denunciation of sorcery and witchcraft among the educated classes. He told me later that in his opinion it was one of the country's most urgent problems, and that even the most outwardly sophisticated university graduates were often in thrall to some village feticheur.

The Ivory Coast is actually a very good place to contemplate the persistence of cultism and its frequent counterpart, the glorification of the chieftain or leader. The capital, Abidjan, is a well-run Frenchified coastal city with numerous chic shops and restaurants and functional if overlarge bureaucracy. But it is not, technically, the political capital of the nation. That honor belongs to the provincial town of Yamoussoukro, birthplace and ancestral village of Felix Houphouet-Boigny. Until his death in 1993, F.H.-B. ran the country like a private estate. And if you make the three-hour journey north by road to Yamoussoukro, you can see his memorial.

Soaring directly out of the red dirt and the scrub is an immense Roman Catholic cathedral (perhaps 15 percent of Ivorians are Catholic in name) which was designed specifically to be taller than St. Peter's Basilica in Rome. For some reason you need a military permit to enter the place, but on the day of my visit that was a pointless preliminary because I was the only person there. The vast domed structure with its inhuman scale had the look of something that had recently landed from a Steven Spielberg set. Lizards fooled about. A guard dozed stertorously in the men's room. A mongrel was attempting to administer itself a blow job on the steps, but abandoned the effort either because of the heat or from a feeling that the surroundings were inappropriate.

Yamoussoukro is eerie, because its huge Stalinist boulevards and avenues lead nowhere, and because its vast "Institute" dedicated to the study of Houphouet-Boigny "thought," is completely bare of books and papers. Here, as elsewhere in Africa, you get a queasy sense of the jungle creeping unstoppably back. Meanwhile, what has been built is a sort of unsatisfying and discordant compromise between opportunistic capitalism and tenacious tribalism. The contract to build the wasteful and hideous basilica (at a cost which is not disclosed but which consumed a sizable fraction of the country's budget) went, as most local contracts do, to the French construction conglomerate Bouygues, which is to France what Bechtel is the United States. That was one of the many pourboires which sweeten the relationship between Paris and its African client states. Yet smack in the middle of this neglected hellhole of concrete and glass and marble modernism, there is a large artificial lake dedicated to the care and feeding of sacred crocodiles. This in turn is right next to the immense presidential palace which F.H.-B awarded himself. Interestingly, the saints and martyrs in the cathedral stained glass are all conspicuously white. But stationed close to the Redeemer in one panel is a black man whose face is well known from official portraits.

As I watched the crocs playing to and fro in that way they have, I was thinking of a conversation I had had in the capital the night before. "F.H.-B got the Pope himself to come and consecrate that basilica" I was told. "But then when he died he wasn't buried in it. Everyone thought it was supposed to be his mausoleum, but he had arranged for his body to be handed over to the traditional medicine priests. The funeral was in secret. On these occasions, cher ami, the witch doctors are supposed to take back the power they conferred on the big chief when he was alive. That usually means human heads—up to 40 of them for a really major chieftain."

Oh come on, I thought (and indeed said). Wouldn't people notice that there were—to take one objection at random—some missing persons? "Ah, but who counts the peddlers who wander over the border from Liberia or Guinea? Who will miss the occasional refugee, or ask any questions?" These were Africans talking. Europeans in Abidjan, some of whom thought it was politically nonkosher to suggest human sacrifice at the presidential level, nonetheless confirmed that their servants had been nervous, and had gone around checking on stray or missing members of their families. Impressive, at any rate, was the number of people who believed the story.

Superstition can take more than one form. Houphouei-Boigny was a French client. Joaquim Chissano is the leader of a revolutionary and secular party in Mozambique—a former Portuguese colony that tore itself away by armed struggle, and until recently proclaimed the slogans of socialist internationalism. Today, president Chissano greets visiting diplomats and dignitaries by bending their ears about Transcendental Meditation, and has awarded millions of hectares of prime land to "the Maharishi Heaven on Earth Development Corporation."

In the past two decades, Mozambique has been through an anti-colonial revolution, swiftly superseded by a vicious war of attrition with South Africa in which perhaps one million Mozambicans lost their lives. Its economy has been heggared and put into World Bank receivership. After such an acute crisis of expectations, and such a numbing series of disappointments, perhaps people are willing to give anything a try. "If you want to see voodoo economics," said one rather bitter Mozambican radical, "don't read the World Bank reports. Go to the market in Maputo and ask for the black-magic section. They have one now. They didn't used to, but that's all coming back these days."

On a visit to the market, which sold everything from hubcaps to Johnnie Walker, I found the voodoo section without difficulty and was offered a surefire male-potency enhancer. It looked like a suspension of tofu in vinegar, and I felt confident enough to pass it up after a brief hesitation, especially

since—to my relief—the vendor didn't really seem to believe in it either.

However, when people have tried everything and have discovered that nothing works, they will tend to revert to what they know best—which will often be the tribe, the totem, or the taboo. There is almost no country in Africa where it is not essential to know to which tribe, or which subgroup of which tribe, the president belongs. From this single piece of information you can trace the lines of patronage and allegiance that define the state.

The promise of political independence has soured. Economic progress has not merely been arrested, it has been turned back. In most countries, the state forms a thin and unpopular veneer on a pain-racked society. In Nairobi, the relatively clean and modern capital of Kenya, I went to a conference of right-thinking people who were concerned with this very subject. The seminar was on "Democracy in a Multi-ethnic Society," a pressing topic at any time in Kenya, which is riven with tribal envy between the Luo and the Kikuyu peoples, but an especially absorbing one in view of the news from Rwanda. (On the edge of all political conversation in Africa today, if you listen, you can hear the word "Rwanda.")

Though Kenya is outwardly calm, and its English-language press maintains a jaunty tone, worrying news creeps in from the outlying districts. There is the Somali horror show on the border. There are riots in the slums. Up in the Rift Valley, a crude war of clan against clan has broken out.

The meeting took place in the Nairobi Safari Club, in a highly urbane and relaxed atmosphere. It had something of the feel of an old British colonial gathering, called to discuss signs of restlessness among the natives. But with the exception of a German social Democratic team who were helping sponsor the event, all present were Africans. There was some nervous joking about the morning's headlines, which featured a denunciation by President Daniel arap Moi of all such "Democracy conferences," which he accused of being anti-Kenyan activities sponsored by sinister forces overseas.

This was likely to be more than mere rhetoric; President Moi has an imperious way with dissent and uses his police force with a heavy hand. Moreover, he is from a minority tribe himself and is given to consolidating his position by playing off the principal tribes against one another. The word at the meeting was that the fighting in the Rift Valley was probably state-instigated as part of a divide-and-rule strategy. And in Kenya, l'état c'est Moi.

The day's keynote speaker was Professor Ali Mazrui, a smooth-as-silk Kenyan-born academic who now holds a chair at the State University of New York at Binghamton. He appeared to get straight to the point by stressing the abattoir conditions in Somalia, Rwanda, Liberia, Angola, Burundi, and elsewhere. "Is the old slate of the colonial order being washed clean with buckets of blood?" he asked. "Or is the blood in fact spilling in the maternity ward of history as a new Africa is trying to breathe amidst the mess of convulsive birth pangs?"

I could think of a question much scarier than these. What if it's neither of the above? What if all the bloodshed is for nothing? What if Africa is neither being cleansed in blood nor giving birth in blood, but just plain drowning in blood? What if it's rocketing back into the primeval, using 20th-century techniques to accomplish its own destruction? Well, I only asked.

This was a gathering sponsored by, among others, the National Concerns Council and a group called Gender Sensitive Initiatives, which God knows is needed in a continent where on every road you see men leading strings of women like pack animals. But I wondered if such nicely named outfits would care to look reality in the face.

Actually, Mazrui improved as the morning wore on. He proposed six tests for a minimally successful state. Does it control its territory? Is it sovereign over its own resources? Can it collect revenue? Does it maintain an infrastructure of roads, railways, and telephones? Can it provide services such as health, education, and sanitation? Is it able to guarantee law and order? There is a seventh question which he touched upon. Does it control some areas by day but surrender that vestigial power at night?

By any or all of these tests, including the informal and crepuscular seventh one, the majority of African states are not states at all, just entities with occasional impact on the lives of the people who dwell in them. South Africa qualifies as a proper state, as does Botswana, and as do Namibia and Zimbabwe. But that claim would still come as news to millions of their citizens, who live outside the charmed circle of development and "the market."

And to their noncitizens. Much of South Africa's mining labor force comes from impoverished Mozambique, which in effect lives by the export of people. Perhaps one in seven inhabitants of the Ivory Coast is a hungry immigrant from a neighboring country. Even before the terrifying events of April 1994, 200,000 or so Rwandans lived as refugees in Uganda. Eritrea is trying to repatriate a large chunk of its population from Sudan, which in its turn is creating a mass of internal refugees as the Muslim-Christian conflict becomes more acute.

Solzhenitsyn once wrote of the prison population of the U.S.S.R. as a nation apart, with its own rules and even its own economy. In Africa, the displaced person is a special category of citizenship, or at any rate of existence. Nobody really knows how many millions there are. On a dusty and glaring day, I went to visit the Boane camp in Mozambique, which is supposed to be a clearing center, operated by the U.N., for returning Mozambicans who fled to Swaziland during the war. Of the first two men I spoke to, one was an Ethiopian merchant sailor who had made his way down the coast of eastern Africa by sea and had a rather confused account of how he came to be in a relocation center 35 miles from the Swazi border, and the other was a former Angolan policeman who had left the city of Huambo, on the other side of the continent, to get away from the UNITA guerrillas of Jonas Savimbi. He, too, was at something of a loss to explain his presence in this transient wilderness. But, for the moment, it was home. And there wasn't much to go back to.

Both men were educated, with qualifications and skills, and both could speak fair English. Yet in any foreseeable future they were fated to be part of a vast population of Africa whose tragedy is that nobody wants them, nobody needs them, and nobody knows who or where they are. As far as the world economy is concerned, they might as well not have been born, and might as well hurry up about dying.

You don't get a sense of the absurdity of Africa's borders if you travel by air, because customs and immigration routines are the same everywhere (Zaire wholly excepted and other countries partially so). But on land the arbitrariness of politicall geography becomes swiftly apparent. In the hills outside the town of Masvingo—formerly Fort Victoria—in eastern Zimbabwe is the site of the Great Zimbabwe ruins, for which the country is named. After the pyramids, these imposing stone marvels are the largest masonry structure in Africa—not as big as the basilica in Yamoussoukro, perhaps, but far more authentic and many times more absorbing.

Until recently, it was an article of faith among the white settlers that this—the Acropolis of southern Africa—could not conceivably have been built by the ancestors of the shiftless blacks. The country's leading archaeologist, Peter Garlake, was compelled to live abroad when this dogma was made official by the Ian Smith regime. It was now been established beyond doubt that Great Zimbabwe was the work of an African civilization of the later Iron Age, probably in the 13th century but perhaps before that.

On the day of my visit, the vast stone enclosure with its beautifully curved and rounded observation tower was being looked over by a group of Afrikaner tourists. Newly encouraged to travel in black Africa by the amazing developments in their own homeland, they had come to see for themselves that Africa really does have a history and an architecture that pre-dates the white conquest. They were full of enthusiasm, and were writing flattering things in the visitor's book. Well, I thought, I've lived to see it.

Of course, the question arises, if Great Zimbabwe was so great, why did it collapse? There's no clear answer to this question, but it may have had something to do with a loss of contact with the eastern coast. All the way from Masvingo down to the shores of Mozambique, there are lesser Zimbabwes (the word in the Shona language means both "houses of stone" and "venerated houses") that used to be part of the same extended civilization. But if you want to follow this natural archaeological trail, you come up against a frontier that was drawn during the course of a late-19th-century local quarrel between Anglo-Saxon empire builder Cecil Rhodes and the Portuguese.

At the frontier, which cuts across the road with hardly any notice, signs in English and Portuguese warn of land mines. But there is no reason that a mine field should separate the populations on either side of the Zimbabwe—Mozambique border, who are both from the Shona nation and are in fact the same people with a common local language. Nor does it make sense, at a particular bend in the road, for the Shona people to stop going to schools that teach English and start attending schools where the medium of instruction is Portuguese.

Zimbabwe is the country where the young Doris Lessing wrote her first stories—The Grass Is Singing and This Was the Old Chief's Country. For decades after, she was persona non grata in what was then Rhodesia and, returning after independence to write her book African Laughter, she was amazed to find the settlers engaged in the same conversation they had been having when she left.

I had a sample of that very conversation at that very bend in the road at the Zimbabwe-Mozambique crossing. Standing at the border post was a trio of tough, blond young men. They were South Africans, but not in the least like the friendly, mellow Afrikaner families I'd encountered at the Zimbabwe ruins. They looked more like San Diego surf nazis, and they were in a foul mood. Since they had arrived without troubling to acquire visas, the border guards wouldn't let

them cross. More insulting still, the guards would not take money to bend the rules. They were polite but firm in this refusal. "Christ, man, I thought that in Africa everyone took bribes," remarked the tallest of the three charmers. Yes, that's right, I thought venomously, push your way into one of the few honest countries left in Africa, start throwing bribes and foreign currency about, and then go home and complain that everybody is on the take.

An unsatisfactory conversion ensued. "Vanity Fair—isn't that a pornography magazine?" Well, I mean to say, really! I changed the subject with what I thought was appropriate dignity, asking them how they liked Zimbabwe. Not a bit, it was a nothing country, not at all the sort of thing they were used to. Oh, and what sort of thing was that? "Well, back home in South Africa we have Catseyes down the middle of the road. They haven't got anything like that here." Weeks later, in Johannesburg, I found that these youths had pissed me off sufficiently to make me notice that—aha!—there was a distinct shortage of Catseyes on the main roads.

Actually, Zimbabwe has at least one foot in the First World. If you fly in from any neighboring country, you see the suburbs of the capital, Harare, winking with the blue eyes of many, many swimming pools. The quarter-million or so white settlers have abandoned their silly claim to run and own the country in exchange for the undisturbed right to make money in their own way, and they have been joined by a large and ambitious black middle class. An American visitor can use his credit cards, dial AT&T direct, and deal with gleaming car-rental companies. The choice of golf clubs, safari parks, and mountain resorts is extraordinary.

But as elsewhere in Africa, and perhaps more noticeably in Zimbabwe because of the contrast, you have only to walk a few steps from the pool of light around your hotel, or turn your car or jeep a few yards off the main road, to find yourself in the Third World again.

The AIDS crisis is actually one of the few exceptions to this rule, because it strikes all classes and conditions. In a ritzy discotheque in Harare, I met Alex Kaunda, son of the man who until recently was the president of neighboring Zambia. There has been an AIDS death in that family. But most Third World afflictions are unsubtle in being income-related. (Just as the Third World itself is unsubtle in making poor people very thin and rich people very fat.) I began to compose a sort of blank-verse "Sub-Saharan Blues," in which the first line of each verse ran: "You know you're in the Third World when . . ." Thus:

You know you're in the Third World when you see a half-dozen scabby, tiny, scrawny Zimbabwean children playing cheerfully with the improvised toy of a simple balloon made from an inflated prophylactic—the gift of a superbly sincere Swedish charity. In Africa, there is a birthrate trap: a higher standard of living will lead to smaller families but smaller families will not lead to a higher standard of living.

You know you're in the Third World when you talk to an agronomist and he tells you that in southern Africa the drought of 1991–92 was disastrous for food production and the good rains of 1992–93 a huge relief, but that unfortunately the good rains have created ideal conditions for a plague of locusts.

You know you're in the Third World when, flying up the western coast on the national airline of Cameroon, you decide that a visit to the men's room is in order. Reaching the back of the plane and giving the door handle the usual twist and tug, you are fortunate to be covered in nothing worse than confusion when the whole unit comes away in your hand. (I actually muttered the word "WAWA" at that point. Taught me by the most liberal white resident I've ever met, it is an unavoidable acronym which means: "West Africa Wins Again.")

You know you're in the Third World when, hearing that a mother in Zaire has lost two children, you tentatively inquire the cause of death and are told "diarrhea." (In an added touch, epidemiologists have now traced the cause of many deaths in that same rich country to a renewed outbreak of . . . bubonic plague.)

You know you're in the Third World when you see a child, half scared and half scary, guarding some stretch of dirt road or some flyblown checkpoint with the help of a rifle as big as himself. Of the many cases researched for the International Red Cross-sponsored report Child Soldiers: The Role of Children in Armed Conflicts, most of the really wrenching ones occurred in Africa. In Eritrea I was told of Ethiopian conscripts, captured by the rebels, who turned out to be under 14. They had sometimes been used to clear minefields.

Outside the Eritrean city of Massawa, its beautiful coral streets and squares still charred and gouged from the last days of the 30-year war for independence from Ethiopia, I stood at the edge of a grave. Behind an improvised wall of corrugated iron in the middle of some dull coastal flatlands, a mini killing field had been created. Piles of ammunition boxes lay stacked every which way, spilling their contents in all directions. But the contents, in what I realized had the makings of a nasty metaphor, were not ammunition. They were the end products of ammunition.

Yellowing skeletons were sprawling in contorted attitudes, and piles of skulls went with them. Most of the skulls had bullet holes either directly between the eyes or squarely in the back of the neck: a 20th-century "signature" that by now even a child (or, in these regions, especially a child) can recognize. These uncountable and horribly inseparable bodies had been heaped up after an execution.

The Eritrean liberation forces had lost enough people of their own, God knows, and are still looking for thousands of prisoners and hostages who went "missing." But this trove of murder was no help to their inquiry. It belonged, rather, to the war-crimes trials which the new government of Ethiopia will be staging. Their skeletons, some still clad in rags of uniform, almost certainly belonged to dissident Ethiopian officers and soldiers who had urged an end to the dirty war against Eritrea, and been shot down in heaps pour encourager les autres.

The Dergue, the Ethiopian dictatorship responsible for the skeletons, was supported politically and militarily by the former Soviet Union and by Cuba, which had obvious geopolitical ambitions in a country so near the Persian Gulf. But it was also supported politically by the United States and militarily by Israel. Washington favored the continuance of an imperial "unitary state," and Israel opposed the emergence of a new Eritrean state that seemed friendly to Arab nationalists on the other side of the Red Sea.

So the killing field of Massawa, to which I was taken by a group of bright and courageous young Eritreans who had returned from exile in Los Angeles, was a sort of laboratory of foreign interference. Yet again, when Africans had been willing to kill one another, they had found outsiders willing to arm and encourage them.

In 1960, in Tourist in Africa, Evelyn Waugh wrote, "Even now you will find people of some good will and some intelligence who speak of Europeans as having 'pacified' Africa. Tribal wars and slavery were endemic before they came; no doubt they will break out again when they leave. Meantime under European rule in the first forty years of this century there have been three long wars in Africa on a far larger scale than anything perpetrated by marauding spearmen, waged by white men against white, and a generation which has seen the Nazi regime in the heart of Europe had best stand silent when civilised notions are contrasted."

A shrewd point, and from an unexpected source. Nonetheless, there is a sense in which really terrifying and elemental violence is more a part of contemporary African experience than it is of, say, most of Asia and Latin America. The radiant Somali human-rights crusader Rakiya Omaar, co-director of the organization African Rights and author of the definitive new work on Rwanda, put it to me like this: "Many people can imagine losing a friend or a relative or a loved one. But these people have lost all their kin, all their loved ones, all their friends—everyone who even knew who they were."

Rakiya was convinced from her work in the field that the final death count in Rwanda would be even higher than the estimates of half a million. And this, as she pointed out grimly, arises from two rather modern, premeditated forms of barbarism—the broadcast of coordinated orders over a special radio station, and "the use of fragmentation grenades at close range on people who had been herded together."

Rwanda was no frantic explosion of bloodlust, but a long-prepared plan to destroy an entire people. Since before 1990, the Rwandan military had been buying and stockpiling an arsenal of light and heavy weapons, purchased discreetly from South Africa, Egypt, and the ever helpful French. Even the United States did its bit, training 35 Rwandan officers and NCOs in American military schools, and furnishing loans for the purchase of American military equipment. In 1992 the Bush administration cheerfully certified to Congress that Rwandan government "relations with the U.S. are excellent," and announced that "there is no evidence of any systemic human rights abuses by the military or by any other element of the government of Rwanda."

And how did impoverished Rwanda pay for the weapons that would make it into one gigantic charnel house, instead of the verdant and fertile upland community it had once been? In order to finance a $6 million arms deal with Egypt. Rwanda obtained an export guarantee from France's nationalized bank Crédit Lyonnais. This loan was to be redeemed in . . . tea. Poor Rwanda mortgaged the future earnings of its Mulindi tea plantation to Crédit Lyonnais as collateral, and gave Egypt a million dollars' worth of fresh tea as a commodity down payment.

Thus were the innocuous herbal products of a thriving rural people turned into a Western technology transfer, which in turn made a serious genocide, as distinct from a random massacre, actually thinkable and doable. Wole Soyinka, the Nigerian Nobel laureate, once quite properly wrote that it is Africans themselves who are to blame for "the trail of skeletons along desiccated highways . . . the

lassitude and hopelessness of emaciated survivors crowded into refugee camps . . . the mounds of corpses." But when these things happen, the West is not entitled to watch as if they were happening on another planet. The globalization of the world economy means an exchange of responsibilities as well as techniques and resources, and as Joseph Conrad actually did write in Heart of Darkness, "The conquest of the earth . . . is not a pretty thing when you look into it."

"Mozambique is in a coma," I was told by Jose Luis Cabaço, one of the many white Mozambicans who supported the country's independence movement. A long civil and tribal conflict, which was also an aspect of its long war with white Rhodesia and apartheid South Africa, has left Mozambique barely breathing.

We were sitting in the beautiful Hotel Polana in Maputo, where Graham Greene set the scene of illicit interracial romance in The Human Factor. "There is no state," continued Cabaço, who served as minister of information in the revolutionary regime and is still a member of its Parliament. "There is no economy. There is no independence. The war against us was designed by anthropologists"—he practically sput out the word—"who knew all our society's weak points. And a coma requires an oxygen tent. This oxygen tent is now being supplied by the powers that be."

He was right, both on the first point and on the second. The tribalist contras who were financed by South Africa in the bad old days were people who understood the weak spots. They went for the clinics and the schools, using local witch doctors to spread fear of new things, and they kidnapped children and turned them into killers. Roy Stacey, an assistant secretary in the Reagan-era State Department, called this "one of the most brutal holocausts against ordinary human beings since World War II." Today, Mozambique's vital signs are flickering again. But only on one important condition.

It hit me when I went to the stricken hamlet of Mohiua, in the northern Mozambican province of Zambézia, to see the contras being demobilized and to watch preparations for this fall's multi-party elections. To get to Mohiua, I had to fly first to Nampula on a Russian plane with South African pilots and (a first for me, and only their second U.N. peacekeeping effort) an immaculate Japanese ground crew. Then I hitched a ride on a United Nations Puma helicopter which boasted a British flight crew and a Bangladeshi ground crew. On arrival in the bush, I found officers and soldiers from India, Egypt, Spain, Argentina, and (nice to see some Africans) Guinea-Bissau. All along my journey from the capital, I had not met a single Mozambican official. The writ of the government did not run anywhere.

The word is "recolonization." It's a decision that has been made for quite a few African countries. For obvious reasons, it's not called recolonization, out loud, in Africa itself. For equally obvious reasons, it is not called recolonization in the West either, or not outside a few nostalgic newspapers in London and Paris. But in country after country, with Mozambique as a salient case, you find that the local Treasury is a branch of the World Bank, the armed forces are under the stewardship of the United Nations, the electoral register is in the care of international "observers," the distressed citizens apply for relief to outside charities and aid groups, and the choicest bits of real estate are in the hands of multinational corporations.

In the scrub and dirt of Mohiua, nothing grew except footprints. The ex-heroes of South Africa's surrogate army stood around glowering indiscriminately. Their chief, a man distinguished by his highly abbreviated pair of pink Lurex hot pants, was obviously afraid of his men, or his boys, who had been waiting too long for their handout of shoes and rations from the foreigners.

The atmosphere veered nastily between a sorry, unhygienic torpor and an ugly, vindictive frustration. One group of malcontents stood shiftily apart, showing the lopped and stunted effect of a harvesting of limbs—a foot here, a shin there—by land mines. They needed the crisply attired foreign-aid workers, and they also hated and resented them. Any trite moment, such as the arrival of a batch of cans bearing the blue-and-gold logo of the European Union, or the passage by of an undulating village woman, could cause a cacophony of whooping or a pointless, shoving match. In the command tent, where it was planned to give every man, able-bodied or otherwise, a machete and a plastic bucket before sending him back to his home village (if he could find it), and where there was some jocular unease because of the Rwandan echo of the pile of machetes. I heard the ultimate insult being whispered. "They're like *children*, really: out of temper one minute and eager for attention the next. How can you deal with them?"

This was not said by only the non-Africans present. Fernando, the very personable, plump, and patient volunteer from Guinea-Bissau, had the roughest time with the rabble of ex-fighters. At one point, calling him a traitor to Africa and other things less tender and polite, he loudly offered to kill him. "You don't believe me?" said one young tough with a vicious cast in his eye. "I've killed plenty of people." He looked and sounded quite believable, but after an interval of menace he found his attention engaged elsewhere and sloped away to do whatever the next thing was. A few years ago, he had been corrupted by having too much power. Now he was corrupted by having no power at all.

In the Inhambane Province of Mozambique, in 1983, perhaps 100,000 people starved because the world's lending institutions did not relish the "independence" rhetoric of the government. Or, as a World Bank report rather frigidly phrased it, that government's "policy stance was, moreover, instrumental in provoking a sharp decline in external assistance, which further exacerbated the emerging crisis." That lesson, anyway, has now been learned. Every country in Africa has come to heel. The Structural Adjustment Program, or SAP, is the only available model. Export-led growth, deflation, and debt repayment are the new mantras.

But export what? The rest of the world doesn't even pretend to want the continent's main export, which is people. In the Ivory Coast I read a brochure which touchingly invited me to visit: "The Banco Forest, the last trace of the first forest which used to cover all the regions before is now a place looked for and admired by the visitors, its haven of 3000 hectares of preserved forest and of numerous and varied essences." Behind this fractured English crouched the disagreeable truth that, like much of western Africa, the Ivory Coast has little to sell but its old-growth forests, and that these must be felled and logged at an unreal pace, or else the country—a country, after all, that is named for a raw material—would have no "growth" statistics to report to its creditors. "WALA," to rephrase the old saying. West Africa Loses Again.

Even when externally determined policies are probably a "good thing," they arrive like sudden thunderstorms or droughts. In January, the entire populations of 13 African countries woke up one morning to discover that their currencies had been devalued by 50 percent. From Senegal to Burkina Faso and from Cameroon to Chad, the legal tender is the C.F.A. franc (C.F.A. standing technically for Communauté Financière Africaine but known in local vernacular as Colonies Françaises d'Afrique), pegged to the franc and set by the French Treasury. The decision to halve the rate had been made by a French prime minister, without any real consultation.

This is what recolonization has come to mean: African states, and African peoples, being rescued for their own good. If the policy of the outsiders is sound and consistent, they wait and live. If not, they wait and die.

To see how people can drown in powerlessness, you have to understand the depth of the debt hole into which Africa has fallen, or been plunged. Every year, the continent pays out between $10 and $11 billion on a debt which stands at about $180 billion and is climbing. While according to UNICEF, the United Nations Children's Fund, only $9 billion is required to underwrite the immediate health, schooling, food, and family-planning requirements of the continent. Servicing the debt, then, takes more out of Africa than the projected outlays on social spending for the 1990s.

But out of which "Africa"? Most of those promiscuous loans were made during the years of grandiose dictatorship and one-party statism, when men like Mobutu were being supported by the West, and other profligate and sanguinary regimes, such as Ethiopia's Dergue, were being indulged by the former Soviet Union. Now the emerging civil societies (and their children) are being compelled to pay for crimes they did not commit and for blundering, ecologically foolish prestige projects that they had no hand in commissioning.

Archbishop Desmond Tutu, for one, has proposed a modest six-month moratorium on debt repayment, in order to provide a breathing space (or at any rate a panting space) for good government. "The money saved during this time should be used not to benefit the elite, but the so-called ordinary people," Tutu said, adding that Africa needs and deserves "a second chance now that most governments have seen the light and seen that democracy and freedom are cheaper than oppression."

Most governments? Well, 13 governments out of the more than 40 sub-Saharan regimes have had some form of democratic revolution since the great "people-power year" of 1989. Nigeria is currently in the travail of a terrific contest between junta rule and civilian authority, in which the tenacity of the democratic forces has astonished the world. The two most long-running and intense battles for African liberation have actually been consummated only in this decade: the emancipation of all the peoples of South Africa from apartheid and the freeing of Eritrea from another, African empire in the shape of Ethiopia. It could be a mistake to say too glibly that Africa is lapsing back into prehistory when its real history may have scarcely begun.

Some African writers, like Kwame Anthony Appiah in his marvelous book In My Father's House, are properly skeptical of there being such a place as "Africa" at all. The differences among Africans, as Appiah says, are as great as the differences between

Africans and non-Africans. Nonetheless, there is an undeniable African aspiration. Absurd and grotesque as it may frequently be—it chose Idi Amin as its chairman in 1975—the Organization of African Unity embodies the idea of a continent-wide consciousness.

Miriam Makeba sang beautifully at the independence ceremonies of many African states, and tightened a million throats when she spoke of one day singing at an all-African freedom celebration. In these more limited times, let's admit that many Africans would settle for the single, inarguable success story that I proposed earlier.

Currently, everybody's favorite nominee for success story is Uganda. This is partly because 15 or so years ago the very word "Uganda" was a synonym for everything loathsome and terrifying, for a country reduced to the uttermost degradations of cruelty, ignorance, and tribal barbarism. Today, I find myself talking to Toshihiro Fujiwara, a World Bank economist, who is full of pleasant surprises. Uganda, he says, is on its way "back." "Relations between the different peoples and tribes are good. All political and economic discussions are very open and very free. There is a stable exchange rate for the currency, and the economy is growing. The bureaucracy is easy to deal with, and it has no 'hidden agenda' of diverting resources to itself." When I inquire of Fujiwara what makes the difference, he is inclined to stress the big factor in Africa—the rogue factor and the charisma factor—which is leadership. "President Yoweri Museveni is a very good, clean, popular president," he says, "and that makes a huge difference."

It is true that Museveni's reputation is justly very high, and also true that he played a useful role in supporting and protecting the many Rwandan refugees who were driven into Uganda. But the key fact about his recovery plan is that it was not forced upon him from outside. Recently, alluding to the time when the first Portuguese slavers arrived in Africa, Museveni said, "We will have to rely on ourselves. We have to go back to the year 1500, where we left off building an economy integrated in itself, able to produce its own food, its own tools, its own weapons."

The Swahili word for this concept, now coming back into vogue after a long series of experiments with foreign models, is Majimbo. It stands for the idea of local initiative and trust in traditional wisdoms. SUNY Binghamton's Professor Ali Mazrui is one of its leading advocates, and Basil Davidson, perhaps the greatest living historian of Africa, has been very sympathetic to much the same scheme.

"Of course I'm a great admirer of Basil's. We all are. But I heard he'd gone a bit native." My conversation partner, who is speaking so affectionately of a man who is as English as the day is long, is Professor Bereket Habte Sellassie. He is one of Africa's most distinguished lawyers and academics, and he has come home, after a long exile, to chair the commission that is writing Eritrea's constitution. To him, the problem with Majimbo and majimboism is that it is a bit too much like the way it sounds—a bit fuzzy, a bit archaic, a bit improvised, and a bit too respectful of rather dubious "traditional" leaderships. One reason that I like Asmara, the capital of Africa's newest country, is that it is a place where you can have conversations in this tone of voice.

Having survived Mussolini's depredations, the attempt by British colonialism to partition them along tribal lines, and three decades of bloody Ethiopian occupation and repression, the Eritreans have done a remarkable thing. They have gotten rid of outside tutelage, while retaining the best of Italy (the food and the espresso, though even an ardent fan cannot praise the wine, which tastes like sheep-dip), the best of England (pedestrian traffic in Asmara is directed by modest but efficient Girl Scouts wearing white ankle socks), and most of the useful contacts with Ethiopia.

Though the war of liberation went on for generations, and though every adult Eritrean has seen violence and suffered from it, there is no cult of the gun. No testosterone-infested jerks and yahoos with machine guns mounted on their jeeps, like the cowardly road-warrior "technicals" in neighboring Somalia. It is rare to see a policeman, and very rare indeed to see an armed soldier, even though burned-out tanks and the rubble of warfare litter the country.

Driving down to the coastal city of Massawa, I watched with mingled admiration and annoyance as a smart motorcycle cop drew abreast of our car, signaled us to pull over, parked his machine, and removing one white glove for the purpose, gave a disciplined salute to his well-polished helmet. He then issued us a ticket for passing another car too fast on a bombed-out causeway. Our driver was ticked off, all right, but the thought of offering money did not even occur to him. As he grumbled I thought of telling him how lucky he was.

The aid agencies like Eritrea because it is honest and open and because the money doesn't get sucked up into stray pockets along the way. They also like Eritrea because, in a very rough neighborhood, it is going against the tide of religious and tribal sectarianism. Next door, in Sudan, a jihad of revolting proportions is being waged by the Muslim fanatics in Khartoum against the Christians and animists of the South, and against secular ideas. You know the story in Somalia—no longer a state and barely a nation. In Yemen, across the straits, a political and social bloodbath.

The two big tests for Eritrean society will be, and already are, the overcoming of tribal and religious fissures, and the emancipation of women. Both tasks are made easier by the nature of the war Eritrea fought, a people's war which involved different tribes and faiths, and both sexes, fighting together. Although the country is divided into nine ethnic groups and their main religions, the solidarity that has emerged from this is more than rhetorical.

For example, both the Muslim mufti and the Coptic Christian patriarch agreed recently to go on the airwaves and say clearly that the practice of female circumcision and infibulation was not sanctioned by Koranic or biblical teaching. What a tonic it was to sit with Sheikh Alamin Usman Alamin, the grave and courteous mufti, and to hear him speak about the need for schools to be free and nondenominational, about the importance of elevating the status of women, and about the necessity of cooperating with Christians. "We were brothers in the movement for independence," he says, "and brothers we will remain." In any case, as he adds, the rule of one religion is no guarantee of harmony: "Look at Yemen"—as he speaks, most of the Yemeni national airline is parked on the tarmac at the Asmara airport, hiding from the civil war in Aden—"they are all Muslims there."

This broad-minded, open style found its counterpart in Abune Philipos, the Coptic Orthodox prelate, who pointed out something I had already noticed—namely the way in which any village of size could boast a Christian church and a mosque side by side. Ethiopian and Eritrean Orthodoxy has the advantage, also, of dating back to the fourth century A.D. and thus of being entirely African.

In Eritrea, one does not encounter the fateful combination, consisting of resentment of Europeans and envy of Europeans, which disfigures so many other countries. The president, Issaias Afwerki, drives around in a jeep and, in his first address to the Organization of African Unity, accused that body of being a waste of time. The constitution is being written slowly and carefully, to avoid either offending the traditionalists or giving in to them too much. The press is fairly free. The refugees and exiles are in one case clamoring and in the latter case often hurrying to come home. There are no photographs of leaders or politicians in public places.

It can be done, even in a country with almost no natural resources, and this multiplies the reproach that is involved in contemplating the rot and crash and failure elsewhere. We need to seek out the Eritreas, and the Professor Sellassies in all countries, and clasp them to us. It's no good dealing with Africa through the medium of intermittent horror stories, half-cocked panicky interventions, high-handed economic relations, debt schedules, cultural blinkers, and the shipment of expensive weapons. The resilience of Africans (and what resilience) and the resources of Africa (and such resources) can yet be combined in astounding ways. The alternative is warned against by a UNICEF statement, which concluded, "The abandonment of hopes for the continent would mean the writing off of the talents, aspirations and potential of one eighth of mankind, both now and far into the next century." We have no right to amputate the human family in that way.•

MISSION OF PUBLIC SERVICE

• Mr. HATFIELD. Mr. President, I was recently made aware of the remarks made by Governor Nathaniel Butler when convening the first Parliament of Bermuda in 1615. The message of the mission of public service is still clear today and is one I would like to share with my colleagues. I ask unanimous consent that it be made a part of the RECORD.

The message follows:

Thanks be to God, that we are thus met, to so good an end as the making of good and wholesome laws; and I hope the blessed effect will manifest that this course was inspired from heaven into the hearts of the undertakers in England [shareholders of the Bermuda Company], to pronounce and offer it unto us, for the singular good and welfare of this plantation . . .

Take due notice that we come not hither for ourselves only, and to serve our turns, or any man else's in particular, but to serve and regard the public. We are, therefore, to rid ourselves of all base desires of gain; we are to despise all private interests, thus far at least, as to cause them to give way to the general.

It may well be that some men chosen to be burgesses [members of the House of Assembly] here may find some bills preferred into this Assembly that may strike at some getting and income of theirs in particular. If they do so, let them remember their oaths,

let them not shame themselves, and the place they hold here . . . If, in their own conscience, they find that hitherto they have done injury to a common good, let them not augment it by obstinacy . . . I grant there is a freedom of speech and opinion with modesty to be held by every man here . . .

Let us beseech God to inspire us with peaceable spirits, and such thoughts and desires as become honest, loyal and wise men, such as may be for his glory and the forming of this hopeful and forward plantation. . . .●

NO-WIN ROAD TO CUBA

● Mr. SIMON. Mr. President, Cynthia McClintock, president of the Latin American Studies Association [LASA], and Philip Brenner and Wayne Smith, who are with the Cuba Task Force of LASA, recently had an op-ed piece in the Washington Post about the strange policy of the administration of restricting travel to Cuba.

As a matter of fact, that policy doesn't make sense whether it's Cuba, Iran, Iraq, or any other country.

My strong belief is that we play into the hands of dictators when we restrict travel to their country.

Only if there is danger to Americans, should we restrict travel.

It was not very many years ago when we rightfully criticized the Soviet Union because they would not let their citizens travel to the West.

And here we are doing the same thing.

I ask that the McClintock, Brenner, and Smith item be printed in the CONGRESSIONAL RECORD at this point.

The op-ed piece follows:

NO-WIN ROAD TO CUBA

(By Cynthia McClintock, Philip Brenner, and Wayne Smith)

Among other measures it took this past summer to "tighten the noose" on Fidel Castro, the Clinton administration rescinded the general license under which professional researchers could travel freely to the island. This means that professors and graduate students working on issues related to Cuba must now apply for a specific license if they wish to travel. They must do so at least six weeks in advance and have no assurance that the license will be granted; rather, they will be at the mercy of government bureaucrats who can scrub research projects without explanation at the stroke of a pen.

This is an egregious infringement of academic freedoms only one step up from book burning. Many academics, including members of the Latin American Studies Association (LASA), have already indicated their intention to travel to Cuba in defiance of the unjust law.

Controls on travel to Cuba have for years now clearly been unconstitutional. The Supreme Court upheld them in 1984 only because of the Cold War. National security needs, the court ruled by a narrow margin, overrode the rights of citizens to travel. We thought that decision wrong in 1984, but at that point its rationale was at least consistent with other Cold War national security-based opinions. Today, with the Soviet Union having collapsed, the Cold War having ended and Cuba no longer representing even a potential threat to the United States or any other country, the national security argument has evaporated. Yet despite all this, the Clinton administration, shamefully, has continued to violate the constitutional right of American citizens to travel.

Now it goes even further by curtailing academic freedoms. This is not an "ivory tower" issue that affects only college professors. On the contrary, it concerns all Americans, for it goes to the heart of our ability to learn the truth, unvarnished by would-be government censors and manipulators.

And why did the Clinton administration take these new measures? To deny the Castro regime the dollars academics spend during their travels to the island. This, it was said, would help force Castro to prevent Cuban citizens from departing the island by raft or small boat.

First, the dollar amounts are almost laughably small (academics being notoriously poor). And—more puzzling still—didn't the Clinton administration until recently criticize the Castro government precisely on grounds that it was preventing such departures? The Clinton administration said that was a violation of human rights. So did many human rights organizations. And indeed, international conventions state that citizens of any country should be free to depart and return at will. Thus, in demanding that Castro stanch the flow of refugees, were we not directing him to resume the practices we once criticized and, in fact, to violate human rights?

Whatever the moral dilemmas embedded in our demands, Castro has complied. He has agreed to again prevent Cubans from setting out for the United States in small boats. The Clinton administration, however, has given no indication that it intends to rescind the measures it took supposedly to force him to do just that. First for an unjust cause, and now without any cause at all, the administration tramples the civil rights and academic freedoms of American citizens. Why? To placate a right-wing fringe within the Cuban-American community in Florida. Indeed, these elements, led by the Cuban-American National Foundation, seem to have played the leading role in shaping our Cuba policy over the past few months. They wanted these measures imposed, and they want them left in place.

But if they are left in place, one result could be American jails (or at least courts) filled with university presidents and academics. Before it goes any further down this no-win road, the Clinton administration should begin to rethink its whole Cuba policy—and to seek advice elsewhere.●

HOOVER, HONNOLD, AND MUDD: DAVID KUHNER'S ARTICLE

● Mr. HATFIELD. Mr. President, it has been 15 years since the U.S. Senate commemorated the 50th anniversary of the inauguration of Herbert Hoover. A testimony to the appropriateness of this event crossed my desk not long ago. While 40 years have passed since our 31st President's death, we are still discovering new ways that he, and others like him, perennially affect our Nation and the world.

This testimony takes the form of an article written by a diligent and gifted researcher and writer from the Claremont Colleges in southern California, David Kuhner. I ask that this article be placed in the RECORD following my remarks.

What is of greater importance today than the education of our Nation's youth? While each year brings with it new challenges, this question is hardly novel. On February 7, 1936, three men, who shared much in common, were among a gathering to celebrate the convocation of the Claremont Colleges: Herbert Hoover, William Honnold, and Harvey Mudd. Each man, a giant in the area of mining engineering, each a humanitarian, in one way or another, and each dedicated to answer that rhetorical question with their lives.

That warm, winter day in southern California, Hoover spoke out on the importance of young men and women studying to find national solutions. Honnold and Mudd, as guiding members of the college consortium's steering committee, watched and listened as their work drove miles closer to fruition. What did these engineers have? They had a vision. A vision for this small yet powerful piece of American higher education. From Hoover's De Re Metallica Library to Harvey Mudd College, their vision remains today—no less powerful than it was in 1936, only more tangible.

The article follows:

[From the Tempo Journal, May 1994]

WHEN THE THREE MUSKETEERS OF ENGINEERING CAME TO CLAREMONT

(By David Kuhner)

It was a small California event in the year 1936, while much bigger headlines clamored for world attention. "King Edward VIII To Wed Mrs. Wallis Simpson"—"Spanish Civil War Begins"—"Germans Occupy Rhineland"—"Joe Louis On Way To Heavyweight Championship."

But the meeting on a college platform in Claremont of three internationally famous mining engineers, who were also close friends—Herbert Hoover, William Honnold, and Harvey Mudd—set in motion forces that still stir the currents of university and college life in southern California today.

Hoover, Honnold and Harvey Mudd—it almost reads like an advertising slogan—were among several guests of honor when they were invited to attend the Claremont Colleges convocation and celebration of February 7, 1936.

Hoover had managed mining enterprises in Australia, China and London, to name just a few of his residences as a young man. Honnold had helped to develop the legendary gold fields of the Far Eastern Rand in South Africa. And Harvey Mudd, along with his father Seeley Wintersmith Mudd, another engineer, had found 'the lost copper mines of the Romans' on the island of Cyprus, a real-life adventure story that rivaled the fictions of King Solomon's Mines. So here they were in 1936, one an ex-President of the U.S. and all three globetrotters, wending their way to a college function at the foot of the San Gabriel Mountains.

They had been told the primary purpose of the event was to honor Dr. James A. Blaisdell, the man behind the plan to group several colleges together in Claremont. Another purpose was to salute the three schools already in the plan: Pomona College, Scripps College, and the Graduate School for their just completed ten years of close association.

This was the program and this was the plan. There was first a grand gathering of

faculty and families at Bridges Auditorium at 10:30 in the morning, then a luncheon at Frary Hall at Pomona College where several distinguished guests would speak, and finally a big alumni dinner in the evening.

The combined Pomona Glee Clubs provided great music; the consuls of Japan, Mexico and China were present, and names such as Robert Gordon Sproul, president of the University of California; Rufus B. von Kleinschmid, president of USC; and Robert A. Millikan, President of the California Institute of Technology added sparkle to the mix. More than 70 universities sent representatives.

In his talk at the luncheon, Hoover provided one of the highlights of the day according to Los Angeles Times reporter Ed Ainsworth, who said that the former President "helped the Claremont Colleges look through a telescope at their own bright future." Hoover said that the young men and women in colleges such as these must play a role in the solution of "the great national problem" and he praised President Blaisdell and his fellow engineer, Mr. Honnold, for leading the way to this goal. Blaisdell had spent the summer of 1925 in England and returned with a concept new to America. "My own deep hope," he said, "is that instead of one great differentiated university we might form a group of small colleges somewhat on the Oxford type."

This pattern was now set in Claremont and during those halcyon years both Honnold and Harvey Mudd played key roles in steering the project through their service on the Board of Fellows, the overall governing body. Mr. Mudd's father, Seeley W. Mudd, had passed on before this time but his spirit was mighty strong in the board rooms.

Another important announcement at the luncheon was made by Harvey Mudd when he said that a third college would be added to the group "within a very few years." This was to be Claremont Men's College, now known as Claremont McKenna College, which came aboard in 1946.

What was it about these engineers that made them loom so large among the Claremont movers and shakers? Although there were certainly other brilliant occupations and leaders present, the threesome of this story were destined to leave an extraordinary legacy of their lives to this college scene, one that was totally unpredictable in 1936. Here is how it happened.

Hoover, out of the turmoil of the White House at last, went back to Palo Alto and lost himself in causes close to his heart: the Boys Clubs of America and directorships of a dozen scientific and educational institutions. Then came the day in 1945 when President Truman called him into the Oval Office and said, "Mr. President, there are a lot of hungry people in the world (World War II had left millions starving in 22 countries) and I want you to head up a world-wide emergency famine committee."

Truman later stated, "Well, I looked at him. He was sitting there and there were great big tears running down his cheeks. It was the first time in 13 years that anybody had paid attention to him."

Hoover traveled 35,000 miles on that assignment—a bit of deja vu for him as he had done very much the same thing before his presidential term, following the First World War, a quarter century earlier. Later he proceeded to direct the 'Hoover Commissions' for streamlining the Executive Branch of the U.S. Two-thirds of his Commission's proposals were adopted.

When death closed his career in 1964 at the age of 90, there was one last legacy of his to give. His family, represented by his grandson Herbert Hoover III, decided in 1970 to give his famous rare book library on mining and metallurgy to the Claremont Colleges. This treasure still guides students and faculty interested in the history of science. Its printed catalogue, called the De Re Metallica Library, has been distributed to research libraries around the world.

William Lincoln Honnold, who at that convocation of 1936 was given the first honorary Doctor of Science degree ever awarded by The Colleges, was called a "citizen of the world" by his friends and colleagues. Over many years he and his wife, Caroline, had a particular faith in Claremont as a center of learning. Shortly after Honnold's death in 1950, his wife announced that their gift of $1,000,000 would be used to construct and endow a centrally located library. The Hannold Library, the main library of the college group now with over 1,000,000 volumes on its shelves, was dedicated on October 23, 1952 and serves as the spectacular centerpiece of the combined campuses.

Harvey Seeley Mudd had a career that stretched from Leadville, Colorado, to Cyprus and to California. A friend has described him as "one of the most humble, most fortunate, and most successful men of modern times . . . a thinker, a patient builder and a self-reliant scholar." He served with distinction as president of the American Institute of Mining and Metallurgical Engineers and in 1935 was cited as the Los Angeles citizen who had given the community the most valuable and unselfish service.

Shortly after his death in 1955, his family and admirers made possible the formation of a new college, Harvey Mudd College, which is situated along Foothill Boulevard in the northern tier of the present Claremont collegiate complex. This college of science and engineering has been consistently ranked the number one school of its kind in the country.

So the years ran on from that convocation of 1936 when three old friends stood on a platform and nodded and accepted applause, to the present day when libraries and buildings bear their names and tell their story. What a change from the days when "engineers" were not quite considered the professionals they are today.

One of Hoover's favorite stories was about his trans-Atlantic crossing by ship in the early 1900s. He was in the dining salon when a vary proper British lady at his table suddenly looked at him and said "What is your occupation, Mr. Hoover?" Hoover replied, "I'm an engineer." "Oh my," exclaimed the lady, her eyes opening wide, "I thought you were a gentleman!"•

A CUBA POLICY DRIVEN BY SADISTIC ZEAL

• Mr. SIMON. Mr. President, I recently held a hearing in my Subcommittee on the Constitution of the Senate Judiciary Committee on the constitutional right to travel. I believe that our policy of severely restricting travel is unconstitutional.

Senator PELL recently had a hearing of the Senate Foreign Relations Committee on the foreign policy aspects of our policy toward Cuba and opened the hearing with a remarkably forthright statement, which I ask unanimous consent to insert into the RECORD at this point.

About the same time, the Los Angeles Times printed a column by Alexander Cockburn about our trade policies with Cuba and how we are hurting innocent people in Cuba through our policies.

I believe we have to recognize that our policies need to be modified, and I hope we do that before too long.

At this point, I ask that the Los Angeles Times column by Alexander Cockburn be printed in the RECORD.

The column follows:

CHAIRMAN PELL'S OPENING STATEMENT, HEARING ON CUBA, OCTOBER 7, 1994

I am pleased to welcome our witnesses today. I believe a serious review of U.S. policy toward Cuba is long overdue and I hope this hearing will begin that process. I have travelled to Cuba three times since the revolution, meeting with President Castro and other high-level officials, dissidents, political prisoners and members of the religious community. I have been frustrated by the Cuban government's failure to implement political reforms and demonstrate respect for human rights. I believe current policy, however, is counterproductive to promoting a peaceful transition of democracy and improving human rights. A recent CIA report warned, President Clinton could face a major crisis in Cuba. Serious instability ninety miles away could lead to a mass exodus of refugees—far more than we saw in August—and spur demands for a U.S. military intervention. I think we are heading along a dangerous path and I urge the Clinton Administration to reassess its approach.

I am deeply troubled by the Clinton Administration's recent tightening of sanctions and its unwillingness to enter into broad talks with the Cuban government. I was pleased, however, that the United States took one small step in the right direction by finally reaching an agreement this week to expand telecommunications between our countries.

It is my view that the embargo hurts more than it helps. We should move toward lifting an embargo which provides the regime with a convenient scapegoat for its economic woes and a rallying point for Cuban nationalism. Rather than isolating the island, we should be expanding contact with the Cuban people. By flooding the island with people, ideas and information, we will better undermine the Castro regime.

The approach I outlined has bipartisan support and I would point out that previous Administrations, Democratic and Republican, have understood that it is in the U.S. interest to normalize relations with Cuba. Pierre Salinger recently wrote in The Washington Post (August 28, 1994) that President Kennedy, who imposed the embargo, realized he made a mistake. Five days before his death, Kennedy sent a note to Castro calling for negotiations to normalize relations. In his posthumously published book "Beyond Peace," (p. 138) former President Nixon wrote that we should have an "open door" policy toward Cuba, "dropping the embargo and opening the way to trade, investment and economic interaction." Officials who served in the Reagan and Bush Administrations have likewise criticized the embargo calling for a change in policy as has the Wall Street Journal, The Washington Post, New York Times, USA Today, The Economist, The Journal of Commerce, The Chicago Tribune, and U.S. News and World Report.

I have invited some Members of Congress who have a keen interest in Cuba to testify today as well as two former government officials, William D. Rogers, who served as Assistant Secretary for Inter-American Affairs

under the Ford Administration and Wayne Smith, who as a foreign service officer, served as Chief of the U.S. Interests Section in Havana during the Carter Administration and the beginning of the Reagan Administration. I look forward to hearing our witnesses' views about how to promote change in Cuba and the lessons we have learned during the three decades that the United States has followed a policy of political and economic isolation.

[From the Washington Post, Sept. 8, 1994]

THE EMBARGO MUST GO

(By Claiborne Pell and Lee H. Hamilton)

The United States and Cuba have taken the positive step of opening talks to address the refugee exodus. But we need to look beyond this crisis. A comprehensive review of U.S. policy toward Cuba is long overdue. Rather than focusing all of our attention on Fidel Castro, we need to start thinking about what's good for Cuban people, and how to promote lasting, peaceful change.

Current U.S. policy dates from when Cuba was a Soviet surrogate, aggressively challenging U.S. interests from Africa to Central America. That time is past. Cuba poses no threat to the security of the United States. Yet Washington's hard line stance continues—more a product of shortsighted domestic politics than of prudent foreign policy considerations.

We share the president's goal of fostering democratic change on the island: We want Cuba to join the community of democratic nations by instituting political and economic reform and respecting human rights. Unfortunately, current policy seems based on the longstanding hope that isolating Cuba will bring about change. We believe the critical challenge is to construct a policy that doesn't put the pace of change in Castro's hands but that proactively promotes a peaceful transition to democracy in Cuba.

For the last 33 years, the cornerstone of U.S. policy has been an embargo that restricts trade, travel and the flow of information. Defenders of the approach argue that by isolating the regime and aggravating Cuba's economic crisis, the United States can force the Cuban government to capitulate, or induce a desperate Cuban people to overthrow the regime. Toward that end, the embargo was tightened two years ago. President Clinton's recent decision to block Cuban Americans from sending cash to relatives in Cuba and to drastically restrict travel to and from the island further tightens the noose.

Unfortunately, after three decades the embargo has failed to bring about democracy in Cuba. Though Cuba has suffered the loss of Soviet subsidies and its worst sugar harvest and most devastating tropical storm in recent history, Castro remains in power. No matter how hard the United States squeezes the Cuban economy, we doubt it will force the Cuban government to embrace democracy. Castro has made a career of defying U.S. pressure and is unlikely to yield: U.S. policy provides a convenient scapegoat for Cuba's economic woes and a rallying point for Cuban nationalism.

Moreover, U.S. policy has done little to advance the cause of human rights in Cuba. Instead, it creates an atmosphere of hostility, reinforcing a siege mentality and providing a justification for repressive policies. The U.N. special rapporteur on Cuba stated in his 1994 report to the U.N. commissioner on human rights that the embargo is "totally counterproductive" to improving human rights. Reformers see the embargo as an obstacle to change, providing ammunition for Cuban hard-liners to accuse anyone advocating reform of playing into the hands of "imperialists" to the north.

Escalating economic pressure may actually reduce prospects for a peaceful transition. If economic sanctions create sufficient hardship to cause social unrest, the most likely consequence would be widespread political violence. This would be a tragedy for the Cuban people and a disaster for the United States. Civil strife would generate a tidal wave for refugees far beyond current flows from Cuba. And it would provide intense domestic political pressure for U.S. military intervention—far greater than we have witnessed with Haiti.

We have learned that the best way to move a communist country toward freedom is to intensify and broaden our engagement with its people. The Cuban people need an invasion of people, ideas and information, not a tightened embargo or a blockade. The United States seeks to change regimes in China and Vietnam through trade and broader engagement. If we use this approach to pry open societies halfway around the world, why should Cuba, 90 miles away, be different?

The United States should open the door for a positive, rather than punitive, influence on Cuba's future by expanding contact with the Cuban people. As initial steps, the United States should: (1) Lift the travel ban that prevents most U.S. citizens from traveling to Cuba; (2) lift the ban on remittances to family members; (3) remove restrictions limiting telecommunications and the exchange of press between the United States and Cuba: (4) expand exchange programs between United States and Cuban citizens; (5) lift the ban on the commercial sale of food and medicine; and (6) remove the extraterritorial provisions of the embargo that have angered our allies and hindered a multilateral approach to Cuba. Beyond these measures the United States can, over time, take additional step-by-step measures to modify the embargo in treasure to positive Cuban actions.

In contrast to Haiti, where the United States is collaborating with other countries to promote democracy, we are alone in our Cuba policy. Many of our closest allies in Europe and Latin America are establishing closer political and economic ties with Cuba, diminishing the economic impact of the U.S. embargo. At the last U.N. General Assembly, only Israel, Albania and Paraguay joined us in opposing an end to the embargo.

We don't think lifting the embargo immediately is politically possible. We may need to move gradually—but we need to move. Lifting the embargo in stages can give the United States leverage over the Cuban government, which fears openness more than isolation. We will better erode totalitarianison by reaching out in the Cuban people.

A CUBA POLICY DRIVEN BY SADISTIC ZEAL

(By Alexander Cockburn)

The United States is killing Cubans every day. The victims are mostly over 65, and they are dying from such diseases as TB, influenza and pneumonia. It's the kind of carnage registered in small upticks on a mortality graph, not as easy to focus on as, say, a pile of bodies dismembered by U.S.-trained troops in El Salvador in the early 1980s. But the killing, engineered by the U.S. government, is just as relentless.

Cuba's crisis began with the collapse of the Soviet Bloc in the late 1980s, but real devastation commenced with the Cuban Democracy Act of 1992, reluctantly signed into law by President Bush in order to head off candidate Clinton, who had been eagerly promoting the bill in Florida. The new law severely tightened the 33-year U.S. embargo on trade with Cuba, banning shipments to Cuba from any subsidiaries of U.S. firms. Foreign ships visiting Cuba are banned from docking at U.S. ports for six months.

U.S. government officials have been enforcing the 1992 law with sadistic zeal. They once banned a shipment of Colombian chickens to Cuba because their diet consisted of American-made chicken feed. Goods produced outside the United States containing less than 10% U.S.-origin components aren't banned under the act. But the United States determined that by the time of shipment, the American feed was reckoned to make up more than one-tenth of the chicken. It would take the pen of Jonathan Swift to address this level of bureaucratic madness. Would a Somalian kid fed on humanitarian shipments be able to claim U.S. citizenship because he had been raised on corn from the Midwest?

The policy is sadistic and deadly. Cuba was able to import a European-made water-purification system that contained filters made in the United States. But the sale of replacement filters was prohibited. So now the whole system is useless. Deaths in Cuba from diseases such as diarrhea, associated with unsafe drinking water, have been rising since 1992.

Medical donations are sometimes permitted from private U.S. organizations, but only under maniacally tortuous on-site supervision.

Cuba can buy food and medical supplies from other countries, but pays about 30% more than U.S. prices; shipping costs are anywhere from 50% to 4,000% higher.

Under such duress, imports of medicines and medical supplies have declined by about 40%. Substitution of some American products is impossible: X-ray film for breast-cancer detection; replacement parts for respirators, Spanish-language medical books from a firm bought by a U.S. conglomerate. Bibliographic searches are impossible for Cuban doctors, since they can't use the National Library of Medicine's MEDLAR indexing system.

Between 1989 and 1993, Cuba's overall mortality rate rose 15%, with a 79% increase from flu and pneumonia attributed to lack of antibiotics. Since the Cuban medical system gives priority to women and children, the elderly and men are bearing the brunt of the shortage.

Rationing protects the weak. Nonetheless, even though overall infant mortality continues to decline, babies with birth weights under 5½ pounds rose by nearly 2% from 1989 to 1993, wiping out 10 years of progress.

Cuba's health system has always been one of the great achievements of the Castro years. Childhood malnutrition disappeared. Immunization coverage for those under 2 is still higher than 90%. The population over 65 increased from 4.8% to 8.9% in 20 years and life expectancy at birth is 75 years, the highest in Latin America.

There's one physician to every 214 residents and the number of physicians continues to rise.

This public-health system is resilient, and shows no sign of the sort of collapse suffered by nations in the former Soviet Union. When a shortage of B vitamins caused 50,662 Cubans to go temporarily (and 200 permanently) blind back in 1993, health workers were quick in distributing the necessary supplements to every household.

But Cuban people are dying because of the U.S. siege,and one question is: What is the American medical community going to do about it? Almost all the major associations have kept their mouths obediently shut. The only one that fought the 1992 bill publicly was the American Public Health Assn. When its own material interests are threatened, no group is more tigerish in self-defense than American physicians. Is it beyond the powers of one of the most powerful U.S. lobbies to urge its government to drop this barbaric siege?•

TRIBUTE TO CHIEF GEORGE R. "BOB" JOHNSTON

• Mr. PRYOR. Mr. President, I rise today to pay special tribute to a distinguished Arkansan, and my good friend, Chief Bob Johnston of the Arkadelphia Police Department.

Chief Johnston, last year's president of the Arkansas Association of Chiefs of Police, [AACP], received the association's highest honor when he was named Chief of the Year this past September. The chiefs association is an organization that keeps chiefs of police from across the State in touch with one another and provides seminars that offer hours of certified law enforcement training in various areas. The AACP also offers drug education programs for junior and senior high schools. Johnston was lauded for his leadership of the AACP as president in 1993–94. The organization made great strides this year with his work on the Governor's Law Enforcement Work Group, the Law Enforcement Summit meeting, and the legislative special session where tougher laws were passed to improve law enforcement capabilities of reducing violent crimes.

The leadership that Chief Johnston has exemplified as the president of the Arkansas Association of Chiefs of Police this past year is greatly appreciated by all. In talking with Johnston's colleagues in Arkansas, I have discovered that his advice has been sound; his expertise has been crucial; and his support of the association is unerring.

Mr. President, I applaud Chief Johnston's work.•

THE INSPIRATION OF ERIC LOPEZ

• Mr. HATFIELD. Mr. President, in this world there are people who choose to walk the well worn path, and there are those who choose "the road not taken." There are people who rise above personal obstacles to achieve what others thought impossible, and to give what others thought improbable. I knew one such individual for a good many years. His name was Eric Lopez, and in October, after a lifelong battle with Epidermolysis Bullosa, Eric passed away.

Epidermolysis Bullosa causes severe blistering that scars the internal organs and deforms the hands and feet. In 1979, with the help of his mother, Eric started a non-profit research organization called D.E.B.R.A., which stands for Dystrophic Epidermolysis Bullosa Research Association. Instead of waiting for a cure, Eric spoke for hundreds of thousands of Americans and brought their story of EB "out of the darkness and into the light." He chose the road not taken, and made a difference. Since the founding of D.E.B.R.A. in 1979, progress has been made.

Under the leadership of Eric's mother, Arlene Pessar, D.E.B.R.A. has labored to increase the public's awareness of EB—I am sure the organization will continue to do so, inspired by the light of Eric's legacy. In the years since the plight of these children was brought to my attention, I have become increasingly aware of the importance in finding a cure, and alleviating the pain of Eric and many others who are suffering. Just the day before his passing a new bill to establish an Office for Rare Disease Research was passing the Senate, but unfortunately failed to be considered in the House. Now that a new session has commenced, it is one of my highest priorities to see that the bill is passed quickly. Our inspiration for swift passage must be Eric Lopez and the others who came before him including my friend Cal Larson, to honor their courage and determination to see change. That is why I bring Eric's story to you today, and why I ask you to join me in paying tribute to an individual who touched the lives of many with his strength and perseverance.

Eric's valiant story can be found within the prose of a poem by Robert Frost, entitled "The Road Not Taken". I would like to read the final stanza of that poem today—in memory of Eric Lopez and the great lengths he took in order to improve the lives of so many. Eric made all the difference.

I shall be telling this with a sigh
Somewhere ages and ages hence:
Two roads diverged in a wood, and I—
I took the one less traveled by,
And that has made all the difference.•

LONGER SCHOOL YEAR SHOWS PROMISE IN BOOSTING STUDENT ACHIEVEMENT

• Mr. SIMON. Mr. President, on October 20, President Clinton signed into law the reauthorization of the Elementary and Secondary Education Act [ESEA], which revised and extended many important Federal education programs. The bill was the final education bill passed by the 103d Congress. Some observers have dubbed this Congress the "Education Congress" because of its success in passing a series of landmark pieces of education legislation including, in addition to ESEA, the establishment of the Federal Direct Student Loan Program, the Goals 2000: Educate America Act, and the School-to-Work Opportunities Act. While there is much more we need to do in order to ensure that all students have the opportunity to learn and that our Nation continues to advance its productivity, the work we have done here provides a roadmap for where we ought to be going.

Included in the Elementary and Secondary Education Act was an amendment I sponsored that would support the efforts of schools wishing to lengthen their school year to at least 210 days. The measure did not receive as much attention as other parts of the bill. And the money authorized, $72 million, is a relatively small amount in a nation of 45 million elementary and high school students. But it is enough to get school boards and school administrators talking about the issue and to provide those who wish to lead on this the incentive to proceed. I believe that the few who do lead on this will see their students do better and that they will soon be followed by many others who recognize the improvement such a change can bring.

In Japan, students go to school 243 days a year, in Germany, 240. In the United States, students attend school only 180 days per year. This is below the number for most other industrialized countries. Can we learn as much in 180 days as they can in 240 or 243? Obviously not.

Our current schedule is a holdover from the days when students needed to leave school and go out and harvest the crops. Yet even in small-town America where I live, this no longer is true for most young people. Our world has changed, and so our educational system must change with it. Increasing attendance to 210 days, still below Germany and Japan, would add 2 full years of schooling by the 12th grade. If we want our students to compete with those of the rest of the world, we must make sure that they are adequately prepared.

A recent article in the Baltimore Sun reports on a school in North Carolina which has lengthened its school year. The early results are encouraging. I ask that the article be printed in the CONGRESSIONAL RECORD.

The article follows:

[From the Baltimore Sun, Oct. 11, 1994]

A STUDY OF LONGER TERMS

(By Mary Maushard)

If Old Court Middle School adopts its plan for a longer school year for all students, it will join a select group of schools in this country.

Some private school students go to school more than 180 days. Some public and private schools offer voluntary extended-year programs. Other public schools, such as two in New Orleans, have tried longer years, been pleased with the results, but have had to give them up because of the added expense.

Year-round schools are becoming more prevalent, but these schools usually just configure the 180 days differently to ease overcrowding and reduce learning loss by having shorter vacations.

American schools have been steadfast in clinging to a nine-month school year, despite calls for reform and warnings that students here are falling further and further behind their Japanese and European peers who spend more days—and hours each day—in classrooms.

There is evidence that the idea is getting a hearing. A little-noticed provision in an education bill enacted by Congress last week includes $72 million for school districts who keep students in class for 210 days.

"The few who will lead on this, and see their students do better on the average than other American students, will soon be followed," said Sen. Paul Simon, an Illinois Democrat who backed the proposal.

Educators, in fact, debate whether more is better when it comes to time in school. Many say just using the time they have efficiently would help students.

At least one public school, the Brooks Global Studies Magnet School in Greensboro, N.C., is committed to more time as a way to improve education.

The Brooks school operates 210 days a year, 30 days longer than any other school in the Guilford County School District. And 300 youngsters are on a waiting list for the 4-year-old elementary school, which has nearly 400 students this year.

"Time within itself is not necessarily good, unless it's used effectively," said Tony Meachum, Brooks' principal. "With 30 extra days, they can go into various topics in more detail. We're trying to teach our children to be problem-solvers, to think on their feet," he added.

The Brooks school ended last year on June 29. It started this school year July 21, said Mr. Meachum. The students had three weeks off; the teachers, two. Many of the Brooks students have never known any other schedule. They started there in kindergarten and don't expect the traditional summer off. Instead, they have a long weekend almost every month; a normal holiday break and a relatively long spring break, said Laura Colston-Brooks, whose two children attend the school.

"We're really happy with it," said Ms. Colston-Brooks. "The teachers really work hard to make things interesting. This is a special, special school," said the PTA co-president.

Because it's a magnet program, students and families knew when they applied that they would be buying into a longer school year, making it different from the proposed longer year at Old Court. The first year, Brooks had only 80 students.

The Brooks students are showing more progress than youngsters of similar backgrounds and abilities who are in traditional-year magnet schools, said a researcher following some Brooks students since the school opened in the fall of 1991.

"Extended year kids make twice as much progress as traditional-year kids in reading and math," said Julie A. Frazier, a doctoral student in developmental psychology at Loyola University of Chicago. These results came after a year of additional days.

Ms. Frazier's study is showing even more differences between the two groups in general knowledge, she said. "It is possible that the extended-year teachers [knowing more time was available for instruction] may simply have engaged their students in more in-depth lessons, which, in turn, may have contributed to the development of a higher level of general knowledge," she wrote in a summary of the study to-date.

Ms. Fazier said the greater implications of an extended year is the cumulative effect on students who attend Brooks throughout elementary school.

Even with this success, Mr. Meachum sees a few disadvantages to the extended year. It's more expensive, costing about $500,000 more to operate per year than a 10-month school, he said. He also has concerns about teacher burnout, about animosity from other schools that think they are being short-changed and about some real administrative problems, such as hiring staff and ordering materials with only three weeks between school years.●

TURKEY

● Mr. DECONCINI. Mr. President, in October, I visited Turkey as chairman of the Helsinki Commission and the Senate Intelligence Committee. I wanted to follow up on issues examined during my last visit in 1989, including human rights, the Kurdish situation, conflicts in the Balkans and the Middle East peace process. Following the visit, I joined President Clinton at the signing of the Jordanian-Israeli peace agreement—an historic milestone in the quest for regional peace, and a priority of both the United States and Turkey.

I met with parliamentary leaders, a foreign ministry official and representatives of human rights organizations. I was disappointed, however, that I was not allowed to meet with jailed Kurdish parliamentarians and other political prisoners, a departure from the openness with which I was received during my 1989 visit.

I expressed concern for the heavy toll on commerce caused by the enforcement of U.N. sanctions against Iraq and believe our Government should seek further compensation for Turkey's losses from Gulf States who have benefited most from continued allied pressure on Saddam Hussein. I also expressed my belief that Turkey can play a critical role in promoting a CSCE-like regional framework for the Middle East, especially if it finds a non-military solution to the Kurdish issue. Turkey's Government has already taken a leading role in supporting a CSCME as a means of fostering a lasting and comprehensive regional peace.

Mr. President, terrorism threatens Turkey's stability and remains a major factor in the cycle of violence plaguing all its citizens. The apparent unwillingness and inability of Turkey's leadership to seek new approaches to the Kurdish situation, however, were evident and disturbing, as was evidence of continued widespread use of torture and restrictions on free expression. Despite these problems, I left Turkey with an appreciation of mutual interests and shared democratic values and believe both our governments should work towards strengthening bilateral relations.

I discussed ongoing efforts by security forces to evacuate and destroy Kurdish villages while fighting the PKK. While I was encouraged by official claims that investigations have been launched, at this point, no such public examination has occurred. I also discussed restrictions on free expression and was told that pending legislation could result in the release of many currently detained for speech crimes. I expressed hope that concrete measures decriminalizing all forms of non-violent expression would take place to bring Turkey into compliance with stated CSCE commitments. I reiterated that the rights of ordinary citizens and duly elected legislators to freely express themselves could not be curtailed in a democratic society.

I also discussed continued widespread use of torture. During my 1989 visit, officials indicated that concrete measures would be taken to reduce torture and educate police officers about proper and acceptable interrogation methods. Today, however, heightened tensions and violence seem to have lessened the political will and urgency of eradicating torture. Human rights advocates say torture is routinely used in political cases and forced confessions are widely used to obtain convictions. I urged officials to redouble torture prevention and monitoring efforts, especially during pretrial detention periods when detainees have no access to lawyers and most torture is alleged to occur. A recent incident further underscores my concerns. On November 3, a Turkish court ordered the confiscation of "File of Torture" a booklet published by the Human Rights Foundation which documents deaths in detention since 1980 and other torture cases. Prosecutors are determining whether to charge Yavuz Onen, who met with the delegation, and Fevzi Argun for disseminating separatist propaganda, a crime carrying a 2-to-5 year prison sentence.

The very measures Turkey is employing to safeguard the State from threats of separatism are polarizing Turkish society even further. Rising nationalism and the tendency to view reforms as concessions to terrorism intimidate any who speak of compromise. The tactics of the PKK do nothing to engender support yet it is the PKK that finds itself the beneficiary of increased sympathy by a people who view themselves with no choices. Voices of moderation are squelched by threats of repression and even assassination.

The delegation left Turkey very concerned as to whether Turkey can accommodate the interests and aspirations of its Kurdish citizens within the present political framework. For years Turkey has repressed, often brutally, a separate Kurdish cultural identity in favor of a secular Turkish identity. Whereas Turkey is not the same as it was only 5 years ago, the steady progression from denying the mere existence of Kurds to granting certain restricted liberties, has been accompanied by a growing gulf of mistrust

between Kurds and Turks. The armed insurgency and the counter measures by the military are approaching the dimensions of a civil war. The Kurdish issue is a critical one for Turkey and all its citizens with very serious long-term repercussions for not only Turkey but the Middle East. Old unresolved questions are reemerging in Turkey and how it deals with those questions today will largely determine the state of democracy in Turkey tomorrow.

I believe the Turkish Government must consider non-military approaches to meet the concerns of Kurdish citizens who do not support the use of violence and who are presently victimized by both sides. Moderate political voices, whether Turkish or Kurdish, must be legitimized and heard—and they must condemn terrorism. Policies and attitudes which fail to differentiate between terrorism and protected forms of expression threaten the foundations of Turkey's democracy. A ceasefire should be the first step towards peacefully resolving the Kurdish issue. Should the PKK declare a unilateral ceasefire, as it did in March 1993, the Government of Turkey should reciprocate. Only when the guns have been silenced, can the difficult task of reconciling Turks and Kurds victimized by war begin. Until the Kurdish question is peacefully resolved, Turkey's efforts in many other areas will be jeopardized—as will continued close cooperation and relations with Western allies.●

THE TROUBLE WITH MERGERS; MAKING A MEAL OF MERGERS

● Mr. SIMON. Mr. President, during the interim of the Senate being in session, I have caught up on some of my magazine reading and came across a commentary in The Economist of September 10, 1994 under the title, "The Trouble With Mergers."

For some time, I have had a concern that we are using capital for nonproductive purposes, for one corporation simply to consume another corporation, and we compound that folly by having a tax system that encourages that acquisition by debt rather than equity.

One of the things that the commentary notes: "Many studies of mergers stretching back to the last century have shown that, despite some successes, the overall record is decidedly unimpressive."

There is no author indicated in The Economist piece, but I ask unanimous consent to insert their commentary, "The Trouble With Mergers," into the RECORD at this point.

Then I would like to insert into the RECORD from the same edition an article titled, "Making a Meal of Mergers." The article is summed up well in the subhead: "Corporate America has rediscovered its appetite for mergers and takeovers. Experience suggests that it will end up with indigestion." This British publication sees our situation more clearly than most of us see it. I ask that it be printed in the RECORD at this point.

The articles follow:

[From The Economist, Sept. 10, 1994]

THE TROUBLE WITH MERGERS

Camels do it, birds and bees do it, even companies do it: all over America, firms are falling in love and settling down together. So far this year, more than $210 billion-worth of corporate mergers have been announced. The ritziest marriage of all, a share swap worth over $10 billion, was announced recently by Martin Marietta and Lockheed, two giants that will henceforth bestride the defense industry as a single colossus. Even bigger deals are said to be on the way, not only in defense but also in drugs, media, entertainment and many other sectors. If only a few of these are consummated, their total value this year will reach levels that have not been seen since the merger frenzy that swept America in the 1980s.

At first glance many such mergers look eminently healthy, not only for the firms involved but also for the economy as a whole. They are portrayed as intelligent adaptations to a changing business environment, caused variously by shrinking markets (defense), government reforms (drugs and health care) or technological change (media and telecoms). And unlike the hostile takeovers of the 1980s, most of this year's mergers have been friendly. Entailing true romance rather than shotgun weddings, tempting synergies rather than financial opportunism, no rash of mergers has ever seemed more benign, or better calculated to boost corporate profits.

The snag is that mergers can almost always be made to look that way at the time. Troubles come later. And many studies of mergers stretching back to the last century have shown that, despite some successes, the overall record is decidedly unimpressive (see page 87). It is not so much that marriages result in asset-stripping, as the enemies of takeovers often allege. In aggregate, mergers seldom lead to egregious cuts in R&D, investment or even jobs (though many head-office jobs vanished in some 1980s mergers). Nor is it common for mergers to vindicate the fears of trustbusters, by creating price-rigging monopolies. No, the real disappointment about mergers is that, on average, they do not result in higher profits or greater efficiency; indeed, they often damage these things. And although they prompt a rise in the combined stockmarket value of the merging firms, this gain is often short-lived.

Naturally not all mergers—and not all waves of mergers—are equal. Blessed with hindsight, most economists now agree that the merging of the 1960s, when firms grouped themselves into diversified conglomerates (ITT, Beatrice) on the strength of faddish management theories, was a disaster. They have also come to agree that many of the takeovers of the 1980s brought lasting benefits, not least by freeing many potentially robust businesses from the unwieldy conglomerates created two decades earlier. Unfortunately, the ruminations of tomorrow's economists do not greatly help today's managers and shareholders as they tremble on the threshold of corporate marriage. Is there a reliable way to predict whether particular mergers are likely to succeed or fail?

TWO CAN TANGO

Much depends on the quality of managements. Even complementary firms can have different cultures, which makes melding them tricky. And organising an acquisition can make top managers spread their time too thinly, neglecting their core business and so bringing doom. Too often, however, potential difficulties such as these seem trivial to managers caught up in the thrill of the chase, flush with cash, and eager to grow more powerful. Merger waves tend to arrive when economies are buoyant and firms have plenty of money to spend—either their own or that of willing lenders.

For all this, not all mergers fail. And they are more likely to succeed when inspired by a clear goal, such as the need to reduce excess capacity in an industry. It is, for example, hard to argue with Norman Augustine, who is to become president of Lockheed Martin, that three full factories are better than six half-full ones. Yet there are surprisingly few industries, such as defense, in which the strategic choice is so clear-cut.

Consider "vertical integration", in the name of which a multitude of mergers between telephone, cable, television and film companies are being mulled or implemented. It makes sense for, say, a maker of television programs to guard itself against betrayal by a distributor. And managers caught up in the multimedia revolution may be right to argue that, if they do nothing, their firms will soon be as redundant as blacksmiths after the invention of the motor car. Yet in some cases it might be better for them to follow General Dynamics, a defense firm that is winding itself down and returning money to shareholders, than to gamble on ill-defined "synergies" that may or may not secure a place on the next century's information superhighway. Time will tell—too late as usual.

Like all waves of mergers, the present one is accompanied by claims that it is more rational than its predecessors. And yet a worrying feature of the current wave is the very friendliness that so many admire. Most hostile takeovers at least have the merit that they seek to replace the incumbent managers with others who, the buyer believes, can run the firm better. Since the 1980s new laws have made hostile takeovers difficult unless the managers of the target firm put themselves in play by starting merger talks with another firm. If a takeover does not install a fresh management, the justification in terms of synergies or economies of scale needs to be all the stronger.

Ultimately the success of an individual merger hinges on price. By definition, shareholders of acquired firms are happy with their dowry, or they would not have parted with their shares. By contrast, shareholders of acquiring firms seldom do well: on average their share price is roughly unchanged on the news of the deal, then falls relative to the market. Part of the reason for this is that lovelorn company bosses, intent on conquest, neglect the needs of their existing shareholders. At this time of corporate romancing, these shareholders might usefully offer such bosses some sage parental advice, along the lines of: take your time, play the field. Otherwise, they may end up in bed with a camel.

[From The Economist, Sept. 10, 1994]

MAKING A MEAL OF MERGERS

Corporate America has rediscovered its appetite for mergers and takeovers. Experience suggests that it will end up with indigestion.

Merger mania is again sweeping down Wall Street and up Main Street. With over $200 billion of deals clinched already this year, the total for 1994 could easily reach levels

not seen since the boom years of the late 1980s (see chart on next page). The market is awash with rumors of possible mega-deals: a General Electric bid for American Express, perhaps, or a buy-and-break-up move for Time Warner, an unwieldly media conglomerate formed through a merger in 1989. Whole industries are thought to be ripe for mergers—ranging from defense to multimedia. It is enough for the historically minded to talk of American business's fifth great merger "wave" in just over a century.

Bankers are rubbing their hands with glee at the prospect of some juicy fees. Shareholders are hoping that their firms might become bid targets, since that would send the stock price soaring. It is a good time, therefore, to pause and consider some of the lessons of America's previous four waves—in the 1890s, 1920s, 1960s and 1980s. Many studies have looked at why these merger waves happened, and what they achieved. Most make grim reading.

Useful articles include: "The Takeover Wave of the 1980s" by Andrei Shleifer and Robert Vishny, Science, August 1990; "Do Bad Bidders Become Good Targets?", by Mark Mitchell and Kenneth Lehn, *Journal of Political Economy*, 1990, no 2; and "Mergers", by Dennis Mueller, the New Palgrave Dictionary of Finance, 1992.

No study has been able plausibly to explain why mergers happen in waves. The most obvious possibility, that at some times firms are systematically under-priced, is easily dismissed. Merger waves have, on the contrary, usually come when stockmarkets are valued above their long-run average.

A second possibility is that a bunch of mergers happen together thanks to a sudden change in a particular industry's market conditions. Mark Mitchell, an economist at the University of Chicago, points out that in the 1980s mergers were especially prevalent in industries experiencing rapid technological change, deregulation, price shocks or increased foreign competition. The same appears to be true now, with mergers clustered in such fast-changing industries as banking, defense, telecoms and health care.

Although this is clearly part of the story, such industry changes do not explain why mergers have happened when stockmarkets are buoyant. Andrei Shleifer, an economist at Harvard University, reckons the answer to that is rather crude: when stockmarkets are bullish, company bosses have money to spend (or can raise it more easily) and worry less that shareholders will call them to account for what they do with it. On this basis, suggests Mr. Shleifer, mergers have often been good examples of managers acting against the interests of shareholders.

There is plenty of evidence to support this. Mergers are always announced with promises of booming profits and big gains in efficiency. Yet several studies have found that even in the 1890s and 1920s, when firms in the same industry merged to reduce competition and win monopoly power, they did not achieve higher profitability. Studies of later merger waves have reached similar conclusions, and found that efficiency was not boosted either; indeed, some have found that efficiency was actually reduced by merger. (All these results are, naturally, open to debate, as they rely on assumptions about what would have happened if the firms had not merged.)

The wave of conglomerate mergers in the 1960s, which resulted in sprawling companies made up of often unrelated businesses, had been found particularly wanting. In most cases, however, problems with the new conglomerates did not emerge until the mid-1970s, when the economy was decidedly rocky. It is possible that the mergers would have worked had the economic boom continued. But by the late 1970s, many of the fashionable 1960s conglomerates were performing very badly.

Most studies have, by contrast, concluded that the 1980s merger wave was beneficial. However, the cases that most strongly support this conclusion were those in which corporate raiders borrowed heavily, took over a conglomerate that had been formed in the 1960s, and broke it up. This is more of an advertisement for firms staying apart than for mergers. The record of full-blown mergers in the 1980s, such as Time Warner's, is less impressive.

So far, most of this is common ground among academics. Where they disagree is in their interpretation of market reactions to mergers. The facts are clear enough. Shareholders in acquired firms have gained on average by 20 percent between the announcement of a proposed deal and its completion. Shareholders in buying firms, on the other hand, made a gain of less than 1 percent over the same period in mergers that took place before 1980; and actually suffered an average loss in mergers since then.

Such poor returns to buyers have prompted fierce debate. On the one hand, the lack of any bid premium is seen as evidence of the "efficiency" of the stockmarket. This is meant in two senses. One is that a stock's price before a merger announcement should incorporate expectations that the firm might be involved in a merger. So a deal should not come as a surprise. A second argument is that a merger proposal will alert rival firms to the merits of the target, triggering an auction that ensures that the seller gets the highest price for his shares. That process will bid away any premium.

Indeed, critics of the efficient-market view point to a significant hole in it: the many cases in which bidders actually lose money. One reason often put forward for this is that the market inflicts a "winner's curse" (ie, the auction tends to push the price too high); another, suggested by Mr. Shleifer, is that managers of a successful bidder are more concerned with expanding their firm than with making a profit for shareholders. That makes them happy to pay over the odds to capture their quarry.

SWINGS AND ROUNDABOUTS

Despite all this, the combined effect of mergers on acquiring and selling shareholders taken together is usually positive. Since many big institutional shareholders now have a stake in both parties to any transaction, they may be happy to lose on the buying side in order to make bigger gains on the selling one. Merger fans argue that this overall gain gives them ample justification—especially since the gain outweighs any costs in terms of fewer jobs (which usually means little more than cuts in head-office workers), wages (usually barely changed), or investment and R&D (which are usually not cut significantly).

However, the share price of a merged firm tends to fall relative to the whole market in the months and years after a merger, in some cases by so much that the original gain disappears entirely. But the significance of this finding is hotly contested. Efficient-market theorists argue that changes in share prices after a merger are irrelevant, as they must reflect new information. Steve Kaplan, an economist at the University of Chicago, reckons that, particularly for long term studies, the difficulties of defining an appropriate benchmark against which to compare share-price changes are so severe that any results are probably meaningless.

One more finding is worth noting. In the 1980s, shares in acquiring firms performed best when the firm was heavily indebted (since money was tight, managers had a strong incentive to perform) and the bid was hostile, intended to remove the managers of a target firm. But these are precisely the deals that are not happening now, in part thanks to government antipathy toward hostile takeovers and in part thanks to the decline of the junk-finance market.

There are, nonetheless, reasons to hope that the new ways of mergers will not repeat earlier mistakes. Big shareholders are increasingly holding company bosses to account, which should make them think twice before pursuing over-priced deals. Rob Visny, another Chicago economist, reckons that today's relaxed anti-trust regime is helpful too, since it allows firms to pursue rationalization in industries such as defense and banking that might not have been allowed in the 1960s and 1970s. Yet the sad fact is that history is littered with examples of failed mergers in the belief that this time, unlike in all previous merger booms, things would be different.•

TRIBUTE TO CHARLES FENTON GRIGSBY

• Mr. MATHEWS. Mr. President, this year the issue of crime has been prominent in the work of the Congress and in virtually every election campaign. However, too often we forget that in the end, it is the professionalism and dedication of sworn law-enforcement officers which is the real key to crime prevention and control. Today I would like to pay tribute to a prominent citizen of Tennessee who made a real difference in this field.

Charles Fenton Grigsby, who passed away on October 19, was born in 1910 in Bethesda, just outside Franklin, TN. He began his career as a high school teacher, coach, and principal, then went on to serve in World War II as a lieutenant in the U.S. Navy, earning a Purple Heart in action in the Pacific.

After his return from the war, Mr. Grigsby obtained his law degree at Georgetown University while working at the Federal Bureau of Investigation in Washington, DC. He later returned to Tennessee and pursued an illustrious career with the FBI, including investigative work on the Jimmy Hoffa trial and work as a police instructor throughout the State.

Mr. Grigsby's most notable contribution to the State of Tennessee and to improving the quality of law-enforcement training in this country was his role in founding the Tennessee Law Enforcement Training Academy in Donelson, TN. Having worked doggedly for its creation, he served as its assistant director from 1966 until 1968, then as director of the academy from 1968 until 1976. By the time he left, the academy had trained 6000 Tennessee

State highway patrolmen, police officers, and other law-enforcement personnel. It has since trained many thousands more in high standards of professionalism and integrity. In an article on the occasion of his retirement in 1976, the Nashville Banner quoted him as saying, "Training in all facets of law enforcement doesn't mean a thing unless the officer has integrity. He can do anything with that, as long as he has pride in his work."

Carrying on that tradition of integrity, Charles Grigsby went on to serve for 3 years as assistant counsel and investigator for the Tennessee Supreme Court's Board of Professional Responsibility. During the last 15 years of his life, he was an attorney in Franklin and was actively involved in the Middle Tennessee State University Alumni Board as well as the Tennessee Bar Association and other law-enforcement, veterans and community organizations. He will be remembered fondly by many individuals and groups for his integrity, for his patriotism, and for the vigor and good humor which he exhibited until the day of his death.

Please join me in paying tribute to the life of this notable Tennessean and American and in extending condolences to his family and many friends.•

HARRY BELAFONTE RECEIVES THE LETELIER-MOFFITT HUMAN RIGHTS AWARD

• Mr. SIMON. Mr. President, I was pleased to note in the Washington Post that Harry Belafonte, who has done so much for UNICEF and so many other good causes, was honored by the Institute for Policy Studies with the Letelier-Moffitt Human Rights Award for his "lifetime commitment to civil and human rights."

As people write about the entertainment scene today, Harry Belafonte plays a prominent role.

But for me, it is even more significant that as people write the history of civil rights and the civil rights struggle and the struggle for human rights and decency for all human beings, Harry Belafonte has been in the forefront.

He is an incredibly fine human being, who believes in good causes and is willing to help good causes.

I know I speak for all of my colleagues in the U.S. Senate when I congratulate Harry Belafonte.•

RETIREMENT OF DR. LAWRENCE E. SHULMAN

• Mr. HATFIELD. Mr. President, in an era where the public is taking a critical look at government, I want to bring to the attention of the Senate, and to the American people, one individual who has served the public with distinction for many years. As many know, I have a keen interest in the medical research programs of the National Institutes of Health. The Director of one of the NIH Institutes, Dr. Lawrence E. Shulman, of the National Institute of Arthritis and Musculoskeletal and Skin Diseases [NIAMS], retired this past fall. Dr. Shulman directed the NIAMS since its inception in April 1986 and became the Institute's first Director Emeritus on November 1 of this year. Dr. Shulman's leadership has been exemplary and this position of distinction at the NIH is well deserved.

During his tenure as NIAMS Director, Dr. Shulman successfully guided the development of the institute through its formative years. He played a pivotal role in facilitating the growth of both the intramural and extramural research activities of the Institute by developing new programs, encouraging innovation, and seizing scientific opportunities. He also convened 150 of the country's leading scientists to develop a comprehensive national plan for the Institute.

In the intramural area, Dr. Shulman organized plans, as requested by Congress, for future program development and expansion. He convened a high-level external advisory group that recommended new laboratories and clinical research programs. Under his leadership, two renowned laboratories—in structural biology and in skin diseases research—have been added. Also established were a model sabbatical program for outside researchers, a collaborative research training program with Howard University, and a training program in pediatric rheumatology with Children's National Medical Center.

NIAMS-supported extramural researchers have made significant progress and major discoveries have occurred in numerous areas of research related to the joints, bones, muscles, skin and connective tissues and their disorders. In addition, under Dr. Shulman's leadership, the Institute has launched a series of research initiatives to build on recent advances, focusing on basic biology, pathogenetic mechanisms of disease, clinical investigation, epidemiology, and prevention research in these important areas.

A strong supporter of investigations related to both women's health and minorities' health, Dr. Shulman has given high priority to research focused on diseases such as osteoporosis, lupus erythematosus, rheumatoid arthritis, and scleroderma. At the same time, he has seen to it that all of the diseases within the broad and diverse mandate of the Institute have been addressed, and has endeavored to bring many of the more costly and prevalent of these diseases to the forefront of the Nation's research agenda. He has mounted impressive initiatives for tragic rare—orphan—diseases, such as epidermolysis bullosa and osteogenesis imperfecta. Epidemiology has also been a priority, with NIAMS leading national data groups on arthritis, osteoporosis, and skin diseases and setting up research registries for several rare diseases.

Collaboration has been a cardinal feature during Dr. Shulman's tenure. He fostered coordination among Federal agencies through his chairmanship of three interagency groups in skin diseases, arthritis and musculoskeletal diseases, and bone diseases. He worked closely with the NIH Office of Medical Applications of Research to set up key consensus development conferences on ultraviolet light and the skin, optimal calcium intake, and total hip replacement. Dr. Shulman gained cooperation between NIAMS and the National Aeronautics and Space Administration through a joint scientific workshop and later a Memorandum of Understanding to collaborate on studies of bone loss and muscle atrophy both on earth and in space. He also played an active role in several international collaborations with Russia, Italy, Germany, the Caribbean nations, and other countries. Dr. Shulman's commitment to cooperation also can be seen in the activities of the Task Force on Lupus in High Risk Populations, generating effective education programs for young African-American women.

Dr. Shulman's career at the NIH began in 1976 when he was appointed the first NIH Associate Director for Arthritis, Musculoskeletal and Skin Diseases for what was then the National Institute of Arthritis, Metabolism, and Digestive Diseases. As such, he created and implemented the programs recommended by the National Arthritis Act and the Arthritis plan, which was presented to Congress in 1976 by the National Commission on Arthritis and Related Musculoskeletal Diseases. In 1983, he was named Director of the Division of Arthritis, Musculoskeletal and Skin Diseases of the National Institute of Arthritis, Diabetes, and Digestive and Kidney Diseases, where he served until the establishment of NIAMS in 1986.

Throughout his career, Dr. Shulman has maintained his association with the Johns Hopkins Medical Institutions where he completed his internship, residency, and research fellowship in internal medicine and endocrinology. He then joined the full-time medical school faculty there, becoming the first director of the Connective Tissue—Rheumatology—Division, whose growth and development he led over the next 20 years before coming to the NIH. Dr. Shulman has been a greatly admired mentor and teacher of many of the Nation's leading rheumatology investigators here and abroad.

An internationally recognized medical leader, Dr. Shulman has himself made many major contributions to biomedical research, particularly in the areas of systemic lupus erythematosus, scleroderma and other connective tissue diseases. Among his notable

achievements was the discovery of eosinophilic fasciitis, also known as Shulman's disease. In 1975, Dr. Shulman was awarded the Heberden Medal for Research in the Rheumatic Diseases in London. He has also been a leader in many professional organizations, serving in 1974–75 as president of the American Rheumatism Association, now the American College of Rheumatology, and as president of the Pan-American League Against Rheumatism from 1982 to 1986.

Dr. Shulman has been the recipient of many honors and awards during his distinguished career, including a 1992 award for leadership in promoting orthopaedic research from the American Academy of Orthopaedic Surgeons, a 1993 Presidential citation for leadership in biomedical research from the American Academy of Dermatology, a 1994 Lupus Foundation of America Award for dedicated leadership and service on behalf of people with lupus, and a 1994 award from the American Society for Bone and Mineral Research for his outstanding support of research in the field of bone and mineral metabolism. Dr. Shulman has chaired scientific groups of the World Health Organization in connective tissue diseases, rheumatic diseases, and osteoporosis. He has also been elected to honorary membership by numerous societies around the world.

In conferring the new title of Director Emeritus on Dr. Shulman, Dr. Harold Varmus, Director of the NIH, said "the Emeritus designation is a high honor accorded those few selected individuals who have distinguished themselves during their careers at the National Institutes of Health."

Mr. President, I want to thank the Society for Investigative Dermatology for their assistance in developing the background for this statement.●

NOTICE OF DETERMINATION BY THE SELECT COMMITTEE ON ETHICS UNDER RULE 35, PARAGRAPH 4, REGARDING EDUCATIONAL TRAVEL

● Mr. BRYAN. Mr. President, it is required by paragraph 4 of rule 35 that I place in the CONGRESSIONAL RECORD notices of Senate employees who participate in programs, the principal objective of which is educational, sponsored by a foreign government or a foreign educational or charitable organization involving travel to a foreign country paid for by that foreign government or organization.

The select committee received notification under rule 35 for Lee E. Arrowood, a member of the staff of Senator WALLOP, to participate in a program, sponsored by the Austrian Federal Economic Chamber, to be held in Austria from December 10–17, 1994.

The committee determined that no Federal statute or Senate rule would prohibit participation by Ms. Arrowood in this program.

The select committee received notification under rule 35 for Bobby Franklin, a member of the staff of Senator PRYOR, to participate in a program in Chile, sponsored by the Chilean-American Chamber of Commerce, and the Association of American Chambers of Commerce in Latin America.

The committee determined that no Federal statute or Senate rule would prohibit participation by Mr. Franklin in this program.

The select committee received notification under rule 35 for James Lee Price, a member of the staff of Mr. MFUME's Joint Economic Committee, to participate in a program in Denmark sponsored by the Danish Government and the U.S. Government.

The committee determined that no Federal statute or Senate rule would prohibit participation by Mr. Price in this program.

The select committee received notification under rule 35 for Charles H. Riemenschneider, a member of the staff of Senator LEAHY, to participate in a program in Rome, sponsored by the Food and Agriculture Organization of the United Nations.

The committee determined that no Federal statute or Senate rule would prohibit participation by Mr. Riemenschneider in this program.●

TIME FOR NATO TO ADMIT TRIO FROM EASTERN EUROPE

● Mr. SIMON. Mr. President, my colleagues, Senator HANK BROWN and Senator BARBARA MIKULSKI, and I have been pushing for NATO membership for Poland, Hungary and the Czech Republic in the not-too-distant future, not excluding other nations in Central and Eastern Europe as they become solid democracies and stable economically.

By that, I mean to specifically include Russia, whose long-term best interests are served by a healthy NATO that stabilizes her western frontier.

Recently, R.C. Longworth, who is a senior writer with the Chicago Tribune, had an op-ed piece on the question of admitting Poland, Hungary and the Czech Republic to NATO, and what he has to say makes good sense. He has written about Eastern Europe through the years and has traveled extensively in that area.

I hope some key people in the Administration will read the CONGRESSIONAL RECORD and consider his observations. I ask that the op-ed piece be printed in the RECORD at this point.

The material follows:

CONTINENTAL SHIFT—TIME FOR NATO TO ADMIT TRIO FROM E. EUROPE

(By R.C. Longworth)

Warsaw—the U.S. and its allies fought the Cold War at least partly to end the division of Europe and to bring the East European satellites back into the Western family of nations. Or so we thought.

Five years after the Iron Curtain fell, Europe remains divided. But this time the West is responsible. Washington and Western Europe are meeting East Europeans' pleas for acceptance with a display of cold cowardice.

Although all East European countries want to join NATO and the European Union, even the most advanced of them—Poland, Hungary and the Czech Republic—do not hope for European Union membership for at least five or six years.

But those three countries could, and should, join NATO immediately. In fact, they probably would be in by now if the U.S. was not afraid to anger Russia, which opposes the expansion of its old foe, NATO, to the borders of the former Soviet Union.

So Washington, which won the Cold War, is throwing away its victory by giving the loser, Moscow, a new sphere of influence over its old satellites and a veto power over the right of these countries to run their own affairs.

For the East Europeans, this kowtowing to the Russians is almost immoral.

Czech President Vaclav Havel, in an eloquent plea in Foreign Affairs magazine, said the West must meet the challenge of Eastern membership to uphold its own values.

"We are concerned," Havel wrote, "about the destiny of the values and principles that communism denied, and in whose name we resisted communism and ultimately brought it down.

"The fate of the so-called West is today being decided in the so-called East."

For the West, the question of East European membership in NATO is one of money, military resources and relations with Russia. For the East Europeans, it is a matter of life or death.

The Poles, Czechs and Hungarians want to join the two great Western institutions partly out of fear of turmoil in neighboring Russia and Ukraine. But mostly, they crave membership because it would honor their courage in throwing off communism, would salute their success in building freemarket democracies, and would validate their status as true Western nations, despite their half-century as Soviet satrapies.

NATO and the European Union have promised to let in at least some of the former satellites, some day. Neither will say when.

The U.S., in particular, is blocking their admission to NATO. Any timetable is "entirely premature," Defense Secretary William Perry said in Spain this month.

"We certainly haven't specified who [will join] or when, and we are not likely to in the near future."

A U.S. government official in Washington said the East Europeans should "concentrate on building their democracies and economies first," to avoid any risk that the U.S. could be dragged into a civil war in the area. But the Poles, Czechs and Hungarians already have build robust democracies and market economies and no serious observers expect civil war in the area.

Despite this, NATO and the EU have taken halfway measures that seem intended to keep the East Europeans at arm's length, rather than to speed their entry into the Western institutions.

By stiff-arming the East, the U.S. and its allies risk creating a security vacuum in Eastern Europe, a zone of insecurity that could prove irresistible to a new Russian imperialism. This could undermine the triumph of adding 60 million people to the world's democracies.

NATO, after all, is more than a military alliance. It is a union of like-minded democratic nations and the only institutional bridge between the U.S. and Western Europe.

Formed in 1949, NATO gave Western Europeans a security framework against Moscow within which they rebuilt their political and economic lives. It now is being asked to do the same thing—no more—for the East Europeans.

Few Westerners realize the sheer emotional longing of the East Europeans for membership in the two Western institutions—or the damage that rejection would do.

"Europe is a continent of values," Janos Martonyi, former Hungarian state secretary for foreign affairs, said in Budapest. "Before, you didn't help us escape from Soviet domination. Now if you cut it in two again, those of us who were not lucky enough to get in before 1949 will be left outside forever."

The East Europeans' dream of joining NATO and EU is a reason why their reforms are succeeding. The ex-Communists know they must play by the West's rules if they are to join.

Rejection could remove this incentive, undermine progress and revive the spiteful nationalism that has caused so much trouble in Eastern Europe.

For these countries, the West's response will determine whether they become truly Western countries, secure within the EU and linked to America through NATO, or will revert to their historical role as a breakwater, battered by waves of Eastern despotism while the luckier nations to the West grow and prosper.

Twice in this century, the Western leaders had the chance to protect Eastern Europe.

At Munich in 1938, they gave it away to Hitler. At Yalta in 1945, they gave it away to Stalin. Munich led to World War II, and Yalta to the Cold War.

The European Union is caught now in its own maelstrom of weak governments, internal feuding, protectionism and post-Cold War confusion, and dreads the expensive task of integrating the relatively poor East Europeans.

Most Americans see the EU as a trading bloc. But its real value lies in the way it already has absorbed 12 nations—some traditional enemies, like France and Germany—into a web of mutual prosperity.

The East Europeans, locked into a failed communist system, missed all this. They want it now.

For the East Europeans, NATO membership would give them an all-important link to the U.S.

"The U.S. role is a real anchor of our security," a Czech official said in Prague, in a clear reference to Munich. "History proves the value of this American involvement. Whenever the European nations are left alone without involvement from across the Atlantic it always led to a tragedy on this continent." This is why the American attitude toward their NATO membership has been such a disappointment.

As soon as the Cold War ended, the East Europeans began seeking NATO membership.

But this desire was barely discussed in the West until about a year ago, when a reunited Germany realized that it was sitting next to ex-commu nist countries with no security anchor, and not that far from a Russia that was spinning out of control.

Germany began calling for NATO membership for Hungary, Poland and the Czech Republic. The Clinton administration, until then fixated on Russia, realized it had to respond.

The result was Partnership for Peace, which offered an association with NATO—including joint maneuvers and information sharing—not only to the East Europeans but to Russia and all the other former Soviet republics, including such non-European nations as Tajikistan. This cooperation omitted what the East Europeans really wanted, which was NATO's promise to defend them if attacked.

But Russia is telling the East Europeans that their full membership—which would bring NATO to the frontier of the old Soviet Union—would be a hostile act.

For the record, Washington rejects this Russian attempt to reimpose its old sphere of influence, and says it hopes to swing Moscow around to accepting NATO's expansion. But if the U.S. fears a weak and demoralized Russia now, it is unlikely to be any more courageous later, when Russia recovers, economically and diplomatically.

"People here are frustrated with the American administration," said Andrzej Harasimowicz, director of the Polish government's Bureau for European Integration. "It seems it is more interested in restoring the Russian empire than in meeting Poland's desire to rejoin the Western world."

Among the West Europeans, the Germans are pushing hardest to get the East Europeans into both NATO and the EU.

They know their growing power will be accepted by their neighbor only if they not only belong to a larger Europe but are surrounded by it.

France, already upset by the post-Cold War growth in the power of a unified Germany, fears that expanded membership will create a new Teutonic bloc.

This is complicated by the EU's agreement this year to admit Austria, Finland, Sweden and Norway, all closer to Germany than to France.

This has nothing directly to do with the East Europeans. But like the U.S. fear of ruffling Russian feathers, it could leave them, once again, outside Europe, naked before the winds of history.●

FOREIGN CURRENCY REPORTS

In accordance with the appropriate provisions of law, the Secretary of the Senate herewith submits the following report(s) of standing committees of the Senate, certain joint committees of the Congress, delegations and groups, and select and special committees of the Senate, relating to expenses incurred in the performance of authorized foreign travel:

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), COMMITTEE ON AGRICULTURE, NUTRITION AND FORESTRY, FOR TRAVEL FROM APR. 1 TO JUNE 30, 1994

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Katherine Howard:									
Eritrea	Dollar		262.00						262.00
Ethiopia	Dollar		394.00						394.00
Kenya	Dollar		242.00						242.00
Switzerland	Franc	379.80	199.00					379.80	199.00
Belgium	Franc	9,331.56	276.00					9,331.56	276.00
Total			1,373.00						1,373.00

PATRICK LEAHY,
Chairman, Committee on Agriculture, Nutrition and Forestry, July 29, 1994.

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), COMMITTEE ON APPROPRIATIONS FOR TRAVEL FROM APR. 1, TO JUNE 30, 1994

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Senator Phil Gramm:									
Korea	Won	409,450	508.00					409,450	508.00
Dick D'Amato:									
Italy	Lira	2,771,996	1,739.00			366,100	226.55	3,138,066	1,965.55
France	Franc			36.22	648.73			36.22	648.73

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), COMMITTEE ON APPROPRIATIONS FOR TRAVEL FROM APR. 1, TO JUNE 30, 1994—Continued

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Total			2,247.00		648.73		226.55		3,122.28

ROBERT C. BYRD,
Chairman, Committee on Appropriations, July 28, 1994.

ADDENDUM CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), COMMITTEE ON APPROPRIATIONS, FOR TRAVEL FROM APR. 1, TO JUNE 30, 1994

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Senator Daniel K. Inouye:									
Germany	Dollar		368.00						368.00
United States	Dollar				5,508.75				5,508.75
Richard L. Collins:									
Germany	Dollar		460.00						460.00
England	Dollar		375.00						375.00
United States	Dollar				2,995.00				2,995.00
David Morrison:									
Germany	Dollar		370.00						370.00
United States	Dollar				1,012.85				1,012.85
Senator Daniel K. Inouye:									
Germany	Dollar		388.00						388.00
France	Dollar		520.00						520.00
England	Dollar		212.00						212.00
United States	Dollar				7,092.95				7,092.95
Richard L. Collins:									
Germany	Dollar		378.00						378.00
Italy	Dollar		502.00						502.00
France	Dollar		510.00						510.00
England	Dollar		206.00						206.00
United States	Dollar				8,146.15				8,146.15
David Morrison:									
Germany	Dollar		950.00						950.00
France	Dollar		310.00						310.00
England	Dollar		500.00						500.00
United States	Dollar				2,532.95				2,532.95
Total			6,049.00		27,288.65				33,337.65

ROBERT C. BYRD,
Chairman, Committee on Appropriations, Aug. 18, 1994.

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), COMMITTEE ON ARMED SERVICES, FOR TRAVEL FROM APR. 1 TO JUNE 30, 1994

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Senator McCain:									
India	Rupee	19,812	634.00					19,812	634.00
Sri Lanka	Dollar		263.00						263.00
Korea	Won	409,450	508.00					409,450	508.00
Senator William S. Cohen:									
Singapore	Dollar		656.84						656.84
Malaysia	Ringgit	1460.64	537.00					1460.64	537.00
United States	Dollar				3788.95				3788.95
Dale F. Gerry:									
Malaysia	Ringgit	1460.64	537.00					1460.64	537.00
Singapore	Dollar		804.00						804.00
United States	Dollar				3690.95				3690.95
Eben A. Adams:									
Malaysia	Ringgitt	1460.64	537.00					1460.64	537.00
Singapore	Dollar		739.00						739.00
United States	Dollar				3690.95				3690.95
Senator Dan Coats:									
Czech Republic	Koruna	3,644.10	125.00					3,644.10	125.00
Hungary	Dollar		219.00						219.00
Germany	Dollar		464.00						464.00
Italy	Dollar		514.00						514.00
Czech Republic	Dollar						274.25		274.25
United States	Dollar				1,809.55				1,809.55
David J. Gribbin:									
Czech Republic	Koruna	3,644.10	125.00					3,644.10	125.00
Hungary	Dollar		219.00						219.00
Germany	Dollar		389.00						389.00
Italy	Dollar		439.00						439.00
Czech Republic	Dollar						274.25		274.25
United States	Dollar				1,809.55				1,809.55
Richard F. Schwab:									
Czech Republic	Koruna	3,644.10	125.00					3,644.10	125.00
Hungary	Dollar		119.00						119.00
Germany	Dollar		364.00						364.00
Italy	Dollar		514.00						514.00
Czech Republic	Dollar						274.25		274.25
United States	Dollar				1,809.55				1,809.55

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), COMMITTEE ON ARMED SERVICES, FOR TRAVEL FROM APR. 1 TO JUNE 30, 1994—Continued

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Charles S. Abell:									
Czech Republic	Koruna	3,644.10	125.00					3,644.10	125.00
Hungary	Dollar		219.00						219.00
Germany	Dollar		381.00						381.00
Italy	Dollar		460.00						460.00
Czech Republic	Dollar						274.25		274.25
United States	Dollar				1,809.55				1,809.55
Senator Sam Nunn:									
Russia	Dollar		551.52				26.00		577.52
Senator Dan Coats:									
Russia	Dollar		650.00						650.00
Senator Dirk Kempthorne:									
Russia	Dollar		620.00		20.00		10.00		650.00
Richard L. Reynard:									
Russia	Dollar		624.95						624.95
Romie L. Brownlee:									
Russia	Dollar		611.00		5.00		34.00		650.00
Lucia M. Chavez:									
Russia	Dollar		650.00						650.00
Richard E. Combs, Jr.									
Russia	Dollar		611.00		5.00		34.00		650.00
John W. Douglass:									
Russia	Dollar		604.89						604.89
Daniel B. Ginsberg:									
Russia	Dollar		579.70						579.70
Thomas G. Moore:									
Russia	Dollar		650.00						650.00
C. Richard D'Amato:									
Russia	Dollar		650.00						650.00
Suzanne M. McKenna:									
Russia	Dollar		650.00						650.00
Glen E. Tait:									
Russia	Dollar		640.00				10.00		650.00
Richard F. Schwab:									
Ruissia	Dollar		650.00						650.00
Richard D. DeBobes:									
Russia	Dollar		608.82		5.00		46.00		659.82
Andrew W. Johnson:									
Russia	Dollar		600.15						600.15
Marshall A. Salter:									
Korea	Won	409,450	508.00					409,450	508.00
Frank Norton:									
France	Franc	7,787.41	1,498.01					7,787.41	1,498.01
Senator James Exon:									
Russia	Dollar		647.24						647.24
Senator Kay Bailey Hutchison:									
Russia	Dollar		403.80						403.80
Senator John Glenn:									
Russia	Dollar		650.00						650.00
France	Franc	1,653	290.00					1,653	290.00
Senator Bob Smith:									
Russia	Dollar		620.00						620.00
France	Dollar		234.00						234.00
Thomas L. Lankford:									
Russia	Dollar		650.00						650.00
Total			25,469.92		18,444.05		1,257.00		45,170.97

SAM NUNN,
Chairman, Committee on Armed Services, July 1, 1994.

AMENDED CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), COMMITTEE ON ARMED SERVICES, FOR TRAVEL FROM APR. 1 TO JUNE 30, 1994

Name and Country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Senator Sam Nunn:									
France	Franc	2,877.68	553.33					2,877.68	553.33
Total			553.33						553.33

SAM NUNN,
Chairman, Committee on Armed Services, July 19, 1994.

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS FOR TRAVEL FROM APR. 1 TO JUNE 30, 1994

Name and Country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Senator Phil Gramm:									
India	Rupee	19,812	634.00					19,812	634.00
Sri Lanka	Dollar		263.00						263.00
Italy	Dollar		447.00						447.00

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS FOR TRAVEL FROM APR. 1 TO JUNE 30, 1994—Continued

Name and Country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
United States	Dollar				602.85				602.85
Ruth Cymber:									
India	Rupee	19,812	634.00					19,812	634.00
Sri Lanka	Dollar		263.00						263.00
Italy	Dollar		447.00						447.00
United States	Dollar				602.85				602.85
Robert Cresanti:									
Russia	Dollar		1,250.00						1,250.00
United States	Dollar				1,526.55				1,526.55
Total			3,938.00		2,732.25				6,670.25

DONALD RIEGLE,
Chairman, Committee on Banking, Housing, and Urban Affairs, July 28, 1994.

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), COMMITTEE ON COMMERCE, SCIENCE AND TRANSPORTATION, FOR TRAVEL FROM APR. 1 TO JUNE 30, 1994

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Senator Larry Pressler:									
United States	Dollar				7,005.95				7,005.95
United Kingdom	Pound	894.69	1,338.00					894.69	1,338.00
Earl W. Comstock:									
United States	Dollar				673.45				673.45
Mexico	Dollar		800.00						800.00
Total			2,138.00		7,679.40				9,817.40

ERNEST F. HOLLINGS,
Chairman, Committee on Commerce, Science and Transportation, Aug. 11, 1994.

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), COMMITTEE ON ENERGY AND NATURAL RESOURCES, FOR TRAVEL FROM APR. 1, TO JUNE 30, 1994

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Shirley Neff:									
France	Dollar		914.00						914.00
United States	Dollar				714.95				714.95
Total			914.00		714.95				1,628.95

J. BENNETT JOHNSTON,
Chairman, Committee on Energy and Natural Resources, Aug. 3, 1994.

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), COMMITTEE ON FOREIGN RELATIONS, FOR TRAVEL FROM APR. 1, TO JUNE 30, 1994

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Senator Russell D. Feingold:									
Ivory Coast	Franc	39,392	70.93					39,392	70.93
Angola	Dollar		656.00						656.00
Tunisia	Dinar	445,411	441.00					445,411	441.00
Spain	Peseta	47,115	349.00					47.115	349.00
Senator John F. Kerry:									
United Kingdom	Pound	549.07	828.00					549.07	828.00
Senator Paul Simon:									
Ivory Coast	Franc	33,997	60.50					33,997	60.50
Angola	Dollar		936.00						936.00
Tunisia	Dinar	554,192	548.00					554,192	548.00
Spain	Peseta	62,100	460.00					62,100	460.00
Lisa Alfred:									
Ivory Coast	Franc	34,102	60.67					34,102	60.67
Angola	Dollar		936.00						936.00
Tunisia	Dinar	554,192	548.00					554,192	548.00
Spain	Peseta	62,100	460.00					62,100	460.00
Kristin Brady:									
Cuba	Dollar		1,700.00						1,700.00
United States	Dollar				317.00				317.00
United States	Dollar				261.00				261.00
Russia	Dollar		990.00						990.00
United States	Dollar				2,502.65				2,502.65
Geryld B. Christianson									
United Kingdom	Pound	140	213.00	41.45	63.00			181.45	276.00

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), COMMITTEE ON FOREIGN RELATIONS, FOR TRAVEL FROM APR. 1, TO JUNE 30, 1994—Continued

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
United States	Dollar				538.95				538.95
Edwin K. Hall:									
Greece	Drachma	190,684	772.00					190,684	772.00
United States	Dollar				2,103.35				2,103.35
Richard Kessler:									
Croatia	Dinar	3,183,215	515.00					3,183,215	515.00
United States	Dollar				3,062.95				3,062.95
Robyn Lieberman:									
Ivory Coast	Franc	46,812	83.30					46,812	83.30
Angola	Dollar		671.00						671.00
Tunisia	Dinar	477,730	473.00					477,730	473.00
Spain	Peseta	58,050	430.00					58,050	430.00
Sandra S. Mason:									
Ivory Coast	Franc	47,770	85.00					47,770	85.00
Angola	Dollar		745.00						745.00
Tunisia	Dinar	480,368	475.00					480,368	475.00
Spain	Peseta	60,664	449.36					60,664	449.36
Kenneth A. Myers:									
Russia	Dollar		960.00						960.00
Diana Ohlbaum:									
Russia	Dollar		990.00						990.00
United States	Dollar				1,880.065				1,880.65
Andrew K. Semmel:									
Croatia	Dinar	3,183,215	515.00					3,183,215	515.00
United States	Dollar				3,062.95				3,062.95
Jonathan M. Winer:									
United Kingdom	Pound	549.07	828.00					549.07	828.00
Total			17,248.76		13,792.50				31,041,26

CLAIBORNE PELL,
Chairman, Committee on Foreign Relations, Aug. 4, 1994.

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), COMMITTEE ON THE JUDICIARY FOR TRAVEL FROM APR. 1 TO JUNE 30, 1994

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Darrell Panethiere:									
France	Dollar		1,008.45						1,008.45
United States	Dollar				1,836.05				1,836.05
Total			1,008.45		1,836.05				2,844.50

JOSEPH R. BIDEN, Jr.,
Chairman, Committee on the Judiciary, August 10, 1994.

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), COMMITTEE ON LABOR AND HUMAN RESOURCES, FOR TRAVEL FROM APR. 1, TO JUNE 30, 1994

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Senator Tom Harkin:									
Switzerland	Franc	839.40	597.01					839.40	597.01
United States	Dollar				299.00				299.00
Joseph Biegner:									
Switzerland	Franc	839.40	597.01					839.40	597.01
United States	Dollar				599.95				599.95
Total			1,194.02		898.95				2,092.97

EDWARD M KENNEDY,
Chairman, Committee on Labor and Human Resources, Aug. 5, 1994.

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), COMMITTEE ON VETERANS AFFAIRS, FOR TRAVEL FROM APR. 1 TO JUNE 30, 1994

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Valerie A. Kessner:									
Germany	Dollar		850.00		602.95				1,452.95
Total			850.00		602.95				1,452.95

JOHN D. ROCKEFELLER IV,
Chairman, Committee on Veterans' Affairs, June 30, 1994.

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), SELECT COMMITTEE ON INTELLIGENCE, FOR TRAVEL FROM APR. 1 TO JUNE 30, 1994

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Howard Walgren			1,370.00		4,058.65				5,428.65
Gary Reese			1,370.00		4,058.65				5,428.65
Timothy Carlsgaard			423.00		1,573.82				1,996.82
Louis de Leon			423.00		1,150.82				1,573.82
Senator John Chafee			1,668.03		7,522.35				9,190.38
James Wolfe			1,432.00		1,860.95				3,292.95
Timothy Carlsgaard			1,432.00		1,860.95				3,292.95
Senator Bob Graham					669.15				669.15
Alfred Cumming					656.05				656.05
Total			8,118.03		23,411.39				31,529.42

DENNIS DE CONCINI,
Chairman, Select Committee on Intelligence, June 27, 1994.

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), COMMISSION ON SECURITY AND COOPERATION IN EUROPE, FOR TRAVEL FROM APR. 1 TO JUNE 30, 1994

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
David M. Evans:									
United States	Dollar				2,233.75				2,233.75
Belarus	Dollar		398.00						398.00
John J. Finerty:									
United States	Dollar				1973.85				1,973.85
Belarus	Dollar		398.00						398.00
Heather F. Hurlburt:									
Austria	Schilling	60,915.58	5,537.78	36,120	3,071.68	5,053.29	459.39	102,088.87	9,068.85
Austria	Dollar						566.78		566.78
Ukraine	Dollar		868.00						868.00
Kazakhstan	Dollar		1,145.00						1,145.00
Czech Republic	Dollar		690.00						690.00
Erika B. Schlager:									
Netherlands	Dollar						136.77		136.77
Victoria A. Showalter:									
United States	Dollar				1,488.85				1,488.85
Poland	Dollar		1,110.00				23.88		1,133.88
United States	Dollar				1,784.75				1,784.75
Malta	Dollar		400.10						400.10
Samuel G. Wise:									
United States	Dollar				1,488.85				1,488.85
Poland	Dollar		1,110.00						1,110.00
United States	Dollar				1,480.15				1,480.15
Czech Republic	Dollar		1,100.00						1,100.00
United States	Dollar				1,379.65				1,379.65
Malta	Dollar		408.31				227.69		636.00
Total			13,165.19		14,901.53		1,414.51		29,481.23

DENNIS DE CONCINI,
Chairman, Commission on Security and Cooperation in Europe, July 27, 1994.

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), FOR TRAVEL AUTHORIZED BY THE REPUBLICAN LEADER, FROM APR. 1 TO JUNE 30, 1994

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Mira R. Baratta:									
Italy	Lire	477,590	293.00					477,590	293.00
Croatia	Dollar		70.00		268.00				338.00
Bosnia	Dollar		329.00						329.00
United States	Dollar				2,010.45				2,010.45
Croatia	Dinar	2,572.17	422.36					2,572.17	422.36
United States	Dollar				1,300.95				1,300.95
Dino L. Carluccio:									
Russia	Dollar		1,950.00						1,950.00
Clarkson Hine:									
Croatia	Dollar		75.00						75.00
Randy Scheunemann:									
Croatia	Dollar		75.00						75.00
Senator Arlen Specter:									
Russia	Dollar		556.83						556.83
Kazakhstan	Dollar		97.43						97.43
Kyrgyzstan	Dollar		157.43						157.43
Uzbekistan	Dollar		163.86						163.86
Turkmenistan	Dollar		155.00						155.00
Senator Robert F. Bennett:									
Russia	Dollar		640.00						640.00
Kazakhstan	Dollar		558.00						558.00

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), FOR TRAVEL AUTHORIZED BY THE REPUBLICAN LEADER, FROM APR. 1 TO JUNE 30, 1994—Continued

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
United States	Dollar				3,924.00				3,924.00
Carey Tatum:									
Norway	Krone	3,412.80	474.00					3,412.80	474.00
Russia	Dollar		473.20						473.20
Kazakhstan	Dollar		131.40						131.40
Kyrgyzstan	Dollar		124.50						124.50
Uzbekistan	Dollar		219.90						219.90
Turkmenistan	Dollar		155.00						155.00
Germany	Dollar		69.00						69.00
United States	Dollar				1,656.95				1,656.95
Total			7,189.91		9,160.35				16,350.26

ROBERT J. DOLE,
Republican Leader, July 27, 1994.

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), FOR TRAVEL AUTHORIZED BY THE MAJORITY LEADER, APR. 1 TO JUNE 30, 1994

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Walter J. Stewart:									
Italy	Lira	477,883	293.00					477,883	293.00
France	Franc	3,945.61	691.00	433.96	76.00			4,379.57	767.00
United States	Dollar				2,777.65				2,777.65
Martha S. Pope:									
Italy	Lira	349,034	214.00					349,034	214.00
France	Franc	3,717.21	651.00	433.96	76.00			4,151.17	727.00
United States	Dollar				2,777.65				2,777.65
Jan Paulk:									
Italy	Lira	464,835	285.00					464,835	285.00
France	Franc	3,945.61	691.00	433.96	76.00			4,379.57	767.00
United States	Dollar				2,777.65				2,777.65
Sally Walsh:									
France	Franc	3,915.24	708.00					3,915.24	708.00
United States	Dollar				1,835.95				1,835.95
Senator George J. Mitchell:									
France	Franc	1,213.92	216.00					1,213.92	216.00
Senator Harry Reid:									
Ivory Coast	Franc	121,392	216.00					121,392	216.00
Angola	Dollar		936.00						936.00
Tunisia	Dinar	544,192	548.00					544,192	548.00
Spain	Peseta	45,350	335.92					45,350	335.92
Larry Werner:									
Ivory Coast	Franc	112,392	199.98					112,392	199.98
Angola	Dollar		936.00						936.00
Tunisia	Dinar	544,192	548.00					544,192	548.00
Spain	Peseta	62,100	460.00					62,100	460.00
Total			7,928.90		10,396.90				18,325.80

GEORGE J. MITCHELL,
Majority Leader, Aug. 9, 1994.

TRIBUTE TO FRANCIS BARDANOUVE

• Mr. BAUCUS. Mr. President, when Representative Francis Bardanouve retired from his post in the Montana Legislature this month, he capped a remarkable career as Montana's longest serving house member. But as he returns to tending the Harlem ranch he so loves, Montanans will continue to draw on him as a source of wisdom and inspiration on progressive reform.

I like to think of him as the Mike Mansfield of the Montana state Legislature. Francis is a mentor of mine, and has been since I observed him in action in the house of representatives almost 20 years ago. As a young legislator, I was privileged to serve on Chairman Bardanouve's appropriations committee. From that experience, I know that the Montana taxpayer had no greater friend.

At the north end of the Montana Capitol is a statue of Territorial Governor Thomas Francis Meagher that reminds me of Francis. Looking out over the sleeping giant, Meagher brandishes his sword and stands guard over the Capitol. Likewise, Francis Bardanouve brandished a sharp knife and stood guard over the budget of this State.

Lawmakers everywhere can learn from Bardanouve's dedication: In four decades, he never lost his zeal in serving his hi-line district. And the institution never changed him.

Rather, Francis changed the Montana Legislature. He piloted many of the innovations that made it a more efficient, adaptable body. He always looked to the future. Among his initiatives: Setting up councils to help State lawmakers rein in the purse strings, helping to integrate the mentally ill into society and tapping new technology to speed up the work of the legislature.

Francis embodied the best of the citizen legislature. For 36 years, he left Blaine County and made the 4-hour-plus trip to Helena to serve in the legislature. He put in extra hours making sure that Montanans were well-served. And he served Montanans well in watching the budget bottom line like a hawk.

So I wish him well as he returns full time to his beloved family and ranch. But Francis knows that he is not one to quietly ride off into the sunset. As Mike Mansfield continues to save our Nation—his wisdom a guidance—

Francis Bardanouve will remain an active participant in the affairs and direction of the State. Montanans will rely on his vision and advice as we continue our journey into a new millennium.●

HATE CRIMES STATISTICS

● Mr. SIMON. Mr. President, last June, I held an oversight hearing of the 1990 Hate Crimes Statistics Act. At that hearing, we heard from FBI officials and civic leaders about the successes and shortcomings of this act encouraging State and local law enforcement agencies to report hate crimes to the FBI. We also heard from people working to combat intolerance before it becomes violent. Everyone involved with this hearing, and indeed with the universal struggle against intolerance, agrees that education can be an effective tool in teaching tolerance and preventing hate crimes.

The American Bar Association's Young Lawyers Division—ABA/YLD—has made a real contribution to this important effort. In 1992, ABA/YLD launched a national pilot project, The Tolerance Education Handbook, designed to provide a tolerance curricula for elementary, middle school, high school, and college students. The message of the pilot programs is: "We will not remain silent in the face of racism and bigotry." Some of the pilot programs in different States are:

The South Carolina Young Lawyers Division coordinated attorney/teacher teams to teach an 8-week course to third and fourth graders, where they discussed the application of the Bill of Rights and the Constitution to issues of prejudice, discrimination, and tolerance.

Maryland's Young Lawyers Division presented a forum on tolerance education to superintendents and middle school principals from across the State.

The Cleveland Young Lawyers Division sponsored a 2-day program for high school students. On the first day, the students viewed an Anti-Defamation League video in which high school and college students speak openly about their experiences with discrimination. On the second day, an attorney, police officer, and juvenile court worker appeared at each participating school to discuss the legal ramifications and effects on a community of committing a hate crime.

All participating schools asked the Young Lawyers Division affiliates to continue their programs into the next semester, and teachers reported that their students evidenced a development in critical thinking.

I applaud the commitment and creativity of the ABA/YLD. It is essential that we all take responsibility for providing a positive example for young people, and that we send the message of tolerance as clearly and loudly as possible.●

TRIBUTE TO BOB BROWN, DEDICATED PUBLIC SERVANT

● Mr. BAUCUS. Mr. President, I rise today in tribute to a dedicated public servant and a personal friend. Bob Brown, the new president of the Montana Senate, has a reputation for rising above the political fray on behalf of sound public policy and the people of Montana. This is a man whose passion for public service is so true that he made it his duty for more than half his life.

Bob's interest in politics began when he was a youngster and continued unflaggingly. When other boys were tracking baseball rosters, Bob was tracking politicians. And Montana State University's student president certainly lived up to all expectations.

Bob and I worked on opposite sides of the political fence when we served together in the Montana House of Representatives two decades ago. And as one of Bob's colleagues, I can say that above all he is a fair-minded lawmaker. And that is still true today. In his new leadership role, he talks about working with minority Democrats rather than steamrolling them this session.

So too, Bob approaches the classroom as he approaches lawmaking. As a teacher in Kalispell, Bigfork, and Whitefish, Bob was known for introducing his high school students to diverse viewpoints and a wider world. For one, he set up interactive projects with Japan. And he invited me to speak, to his students, whom I found one of the most enthusiastic and well-informed groups of young adults I have ever met.

Montana faces some difficult issues in the upcoming session—property taxes and rising health care costs, finding revenue to fund schools and transportation, and promoting growth while ensuring that our State remains the most beautiful in the country. Challenging waters that demand a deft pilot in the senate. Bob certainly has the direction and wisdom to lead the way.

Therefore, Mr. President, I congratulate Bob Brown, the new president of the Montana Senate, and I wish him well as he strives to lead in the fair-minded, respectful way that he has marked his career.●

THE EFFECTS OF MEDIA VIOLENCE

● Mr. SIMON. Mr. President, for years I have worked to sensitize the entertainment industry to the damaging effects of media violence. Many researchers, industry leaders, and journalists have joined me in this effort. Joe Urschel of USA Today recently wrote a piece, "Playing Violence just for Laughs," calling for greater industry sensitivity and responsibility. He writes about the popular movie "Pulp Fiction," in which violence is no longer just gratuitous or shocking, but is played for laughs. Urschel recognizes the director's creative freedom to make his movies the way he wants, but he points out that while moral culpability may not exist in the fantasy worlds they create, it does in the world they live in. We have seen progress but clearly we must continue our efforts. I ask that the USA Today article be printed in the RECORD at this point.

The article follows:

PLAYING VIOLENCE JUST FOR LAUGHS

"PULP FICTION" IS DISTURBING FOR ITS BRAZEN DEPRAVITY

Sadly, you cannot always believe what you read.

"A work of such depth, wit and blazing originality"—*The New York Times.*

"Quite simply, the most exhilarating piece of filmmaking"—*Entertainment Weekly.*

"Ferocious fun . . . damn near a work of art"—*Rolling Stone.*

"Bursts out of its bindings with loopy delights!"—USA Today.

These are the words of film critics writing for some of the largest and most influential publications in the country. They are celebrating the release of Quentin Tarantino's *Pulp Fiction*, a movie in which violence is no longer just gratuitous, no longer just for shock, no longer just for some sort of twisted cinematic "artistic effect."

In *Pulp Fiction*, violence is for laughs.

You can forget about trying to reform the Hollywood industry that produces the most profitable television and movie products in the world. Like contemporary tobacco chiefs who deny any link between cigarettes and cancer, Hollywood executives will still be sitting before congressional committees 10 years from now in adamant denial.

They will continue to callously brush off the connections between their products and the violence in society—despite an avalanche of scientific studies showing the connection.

Unlike the tobacco industry, however, Hollywood has a powerful coterie of sycophants and enablers in the press who wrap this craven merchandising in the cloak of artistic expression and try to elevate it to the level of something holy and good.

While *Pulp Fiction* may not be the most violent movie to come along, or the most profane, it is certainly both. But what should disturb anyone who sees it—especially those who are judging it for others—is its brazen depravity.

This is a movie about a collection of morons who move through life dispassionately executing the guilty and the innocent. The movie doesn't show you this to make you loathe these people or their actions. It doesn't rub your nose in this violence to make you hate it. It does this to make you laugh.

Everything is a loose, high-schoolish joke in *Pulp Fiction*. It doesn't just mock our sense of revulsion at off-handed, unconscionable murder. It plays rape, sadomasochism, cocaine, heroin injections, drug overdoses, Vietnam POWs, the Bible and anything else it encounters for laughs as well.

The biggest gag in the movie occurs when John Travolta's gun discharges and inadvertently blows the head off a kid in the back of his car. A laugh riot ensues while our lovable protagonists have to clean up the car by picking skull pieces off the seats and mopping up pools of blood on the floor.

What depth! What exhilaration!

Why is it that when the latest street atrocity is committed—an 11-year-old casually executed by friends, an elderly couple killed for their car, kids at a pool sprayed with gunfire—we are repulsed and alarmed, but when similarly horrific acts are depicted on the screen, we celebrate them as art?

This isn't to deny Quentin Tarantino the right to make his movies any way he wants. Nor is it to deny that there is craftmanship and skill in his work.

But something not worth doing is not worth doing well. And while filmmakers may create extraordinary fantasy worlds in which there is no moral culpability, they do not live in one.●

LAW ENFORCEMENT AVAILABILITY PAY

● Mr. DECONCINI. Mr. President, in recent weeks I have been contacted by numerous Federal law enforcement associations as well as Federal law enforcement agencies expressing concerns about regulations proposed by the Office of Personnel Management on law enforcement availability pay [LEAP], enacted under section 633 of Public Law 103-329, the fiscal year 1995 Treasury Appropriations Act. As the author of this provision, I believe some clarification is in order.

I understand that OPM regulations which are currently being circulated are draft regulations which have not yet been finalized. I have been kept abreast of the formulation of these regulations by OPM and I commend the conscientious efforts to ensure that the regulations accurately reflect the intent of the Congress. Unfortunately, some agencies have prematurely issued their own regulations which neither reflect the OPM draft regulations nor the intent of Congress. As the author of section 633, I want to take this opportunity to express in clear terms the intent of the LEAP legislation.

The LEAP legislation emerged from extensive and cooperative discussions and meetings with Federal agency representatives and law enforcement organizations. As such, the final LEAP legislation was intended to accomplish several objectives:

First, establish a uniform system of compensation for the unique work conditions and excessive hours commonly required of a Federal criminal investigator, thus eliminating the varied and disparate compensation previously provided under administratively uncontrollable overtime or "AUO" regulations

Second, eliminate excessive administrative activity and paperwork associated with current overtime pay systems in order to achieve cost savings to Federal agencies while maximizing investigative time and efforts in the field.

Third, guarantee and uniformly apply compensation which had been under constant review, revision, or consideration for reduction, thus providing a sense of financial security and consistency to those investigators who must frequently relocate themselves and their families as a condition of employment.

Fourth, eliminate other costly forms of compensation [FLSA] which had been provided in addition to "AUO", thus providing significant savings to agencies and departments during times of fiscal restraint.

Fifth, ensure that supervisors are managing their personnel and evaluating performance rather than merely counting hours.

Section 633 makes clear that all 1811 series criminal investigators "shall be paid" except in those cases where both the agency and employee mutually agree that conditions for compensation will not be met and, therefore, not provided.

Perhaps the areas of greatest concern are the interpretation of the term "available," the conditions under which the compensation may be terminated, and the formula to be applied for scheduled overtime compensation.

The term "available" was included in LEAP with several goals in mind. It ensures that, in the process of career development, a criminal investigator would not be penalized for accepting an administrative assignment in positions such as headquarters or training. These positions may have precluded the investigator from qualifying for premium pay under the AUO guidelines of irregular, uncontrollable hours or may not have afforded the investigator the opportunity to routinely work the substantial unscheduled duty hours consistently required in the field.

The availability condition also serves to protect a criminal investigator from intentionally being precluded from assignments, cases, or activities, by a supervisor solely to disqualify the investigator from receiving the premium pay. An agent who is performing satisfactorily, routinely recognizes and works unscheduled duty, and has regularly demonstrated a willingness and availability to work unscheduled duty should receive this premium pay.

It is also important to note those conditions which were not intended to serve as criteria for availability status. Availability hours are not defined as, all off duty hours during which an investigator is reachable or accessible by telephone, radio, or pager. Certainly, in those circumstances when an investigator is a duty agent and personal activities are restricted, accrual of some unscheduled duty hours should be recognized by an agency. Additionally, a reasonable application of availability hours should be considered on regular work days during which an employee has consistently demonstrated a willingness and readiness to perform duties.

Federal law enforcement agencies and associations have long maintained and supported through statistics that the vast majority of criminal investigators have always worked unscheduled duty hours far in excess of those previously required under AUO. With the exclusion of required unscheduled duty hours for annual leave, sick leave, training, and other approved status, the required hours necessary for compensation are now significantly diminished. I, therefore, believe that the vast majority of criminal investigators will continue to work any additional hours necessary to successfully complete their mission.

As stated in the Senate committee report accompanying H.R. 4539, LEAP does not provide license for an investigator to refuse legitimate unscheduled duty assignments or assume that availability may, solely at the investigator's discretion, replace work, when in fact the agent has assigned duties or cases. Nor should an investigator refuse extra duty hours because the investigator has already met any minimum number of hours for compensation solely through an investigator's claim to be available.

The manager should also exercise some responsibility and common sense. Investigators should not be directed to report prior to, nor remain on duty after a regular work day for the sole purpose of ensuring that a 2-hour requirement for unscheduled duty is being met absent any other need for the investigator's presence. The 2-hour formula refers to an annual average and does not imply that each and every workday requires 2 hours of additional work by the criminal investigator.

On the issue of termination of this premium pay, it was not the intent of the Congress to provide to management the right to arbitrarily remove the compensation from any individual or category of investigator without adverse action through the Merit Systems Protection Board. Termination of this compensation should result from an investigator's regular refusal or unwillingness to work unscheduled duty, poor performance and low productivity together with a deficiency in unscheduled duty hours. Again, common sense should apply. Managers should be well aware of the performance, attitude and efforts of their respective personnel and not base a denied "certification" solely on the accrual of hours.

The scheduled overtime provision was absolutely not intended to provide agencies the authority to schedule 10 hour workdays to ensure that unscheduled LEAP hours are worked. The scheduled overtime provision has always been and continues to be a mechanism for additional compensation. It should be applied on those occasions when an agency intends to provide compensation in addition to LEAP. The number of hours for which scheduled overtime compensation is provided is determined by the respective

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agency. The 10-hour rule was intended as a reminder that LEAP hours should be provided during the course of that workday.

LEAP has placed more responsibility on managers to manage their personnel and emphasizes performance in addition to required unscheduled duty hours. The investigators, too, have the responsibility of recognizing the need to work the necessary unscheduled hours and should not view this legislation as an opportunity to avoid assignments or inappropriately decrease their productivity.

Perhaps, most importantly, common sense and good faith must be applied by both agency management and investigators. I have always viewed Federal criminal investigators as professionals and have long held that their mission will be carried out with due dedication and professionalism. I would hope that those managers and investigators who may represent the few exceptions do not drive agency regulations and requirements which are counter to the intent of the legislation.

I urge agencies and investigators to work together cooperatively to implement this legislation which has been described by law enforcement agencies, associations and journalists as a "win, win" solution for everyone.●

THE COSTS OF OVERLOOKING THE OTHER CHINA

● Mr. SIMON. Mr. President, for some time now, United States relations with Taiwan have lagged far behind the remarkable political and economic progress that country has made. Taiwan has made great strides in opening and democratizing its political system; the contrast between Taipei, with its free elections and free press, and Beijing could not be more striking. And while China is touted for its booming economy and seemingly limitless market, fewer people are aware that Taiwan is now the 20th largest economy in the world, and that last year its 21 million citizens bought more from the United States that the 1 billion people of China did. Yet from the standpoint of official, governmental contracts with the United States, Taiwan in many ways remains a non-person, an outcast.

That is simply wrong. It is wrong from a political standpoint, that a country which is working hard to measure up to democratic standards should be treated worse than countries which are openly contemptuous of those very values. And increasingly, it is wrong from an economic standpoint. While we keep our distance from Taiwan, other countries have sent more than 30 Cabinet-level officials to Taipei in the past 3½ years to promote business interests. Our government's unwillingness to accord Taipei similar respect puts American business at a serious disadvantage in the increasingly important Taiwanese market.

An article in the October 8 National Journal makes very clear the costs of our overlooking the other China. I request that the article, "The Other China," be printed in the RECORD.

The article follows:

[From the National Journal, Oct. 8, 1994]

THE OTHER CHINA

(By Dick Kirschten)

The corporate moguls who accompanied Commerce Secretary Ronald H. Brown to China at the end of August were essentially stage props for a triumphal series of ceremonial contract signings. Still, they were delighted that President Clinton has avoided angering Beijing by declaring that human rights concerns should not pose a barrier to trade.

When it comes to greasing the skids for deals with Taiwan—the "other China"—however, the U.S. business community wants the White House to be less timid about offending the rulers of mainland China, formally the People's Republic of China (PRC).

After the results of a long-awaited Clinton Administration review of U.S. policy toward Taiwan—formally the Republic of China (ROC)—were disclosed on Sept. 7, Clinton was roundly criticized as excessively cautious by business lobbyists and congressional boosters of trade with Taiwan.

As one of the tigers of the so-called East Asian Economic Miracle, Taiwan has built up massive foreign-exchange reserves and has both the desire and capacity to purchase large quantities of advanced technology for both civilian and military purposes.

After many profitable years as Taipei's dominant business partners, American businesses suddenly find themselves competing for a share of the lucrative Taiwanese market. "The kind of client-state relationship that we used to have is gone," explained David N. Laux, president of the USA-ROC Economic Council, a business group that seeks to foster trade with Taiwan.

Laux, whose council represents scores of Fortune 500 firms, argues that higher-level contacts by U.S. officials are needed to nurture the commercial ties that have made Taiwan the United States sixth-largest trading partner. "We are not paying the proper attention to Taiwan that we should for its economic performance," he said in an interview.

Current trade statistics support Laux's argument. Mainland China may be the world's premier emerging market, but for now, Taiwan is by far the larger customer for U.S. goods. American exports to Taiwan last year totaled $16.3 billion, compared with $8.8 billion to mainland China.

The Taipei government wants more attention, too. "There is a growing feeling among the people of Taiwan that they don't get adequate respect around the world because they are not recognized as a state by other countries," explained Ralph Clough, a professor of Asian studies at the Johns Hopkins School of Advanced International Studies. Taiwan has "functioned in the world community as a de facto sovereign state for more than 40 years," but does not enjoy membership in the United Nations and many other international organizations, Clough noted.

After its defeat by the Communists in 1949, the nationalist Chinese government fled to Taiwan, a 14,000-square-mile island in the South China Sea, 80 miles from the mainland, where for decades it held that it was the legitimate government of China in exile. In recent years, the Taipei government—while still committed to eventual reunification—has come to accept the reality that China is governed by separate political entities.

As Taiwan's political system has become more democratic, an aggressive opposition party, the Democratic Progressive Party (DPP), has emerged that pledges to declare independence if it wins next year's national elections. Citizens born on the mainland now constitute a shrinking minority, and the island's population increasingly regards itself as Taiwanese rather than Chinese.

In the face of growing DPP support, the ruling Kuomintang (KMT) party—though mindful of Communist China's threats to go to war to prevent Taiwanese sovereignty—has been forced to adjust its positions to seek greater international recognition. Taiwan is now on track for inclusion in the General Agreement on Tariffs and Trade (GATT) and is seeking "parallel representation" in the United Nations, citing Germany and Korea as precedents for dual U.N. representation. Taipei, despite rumblings of displeasure from Beijing, is also courting diplomatic recognition by other sovereign nations.

But the United States officially recognizes only one China, and since diplomatic relations were shifted from Taipei to Beijing in 1979, that has been the PRC. America's "one China" policy, of course, has always been largely a fiction. Unofficially, America has maintained the closest of economic and military ties to Taiwan.

Washington's contacts with Taipei are restricted to relatively low-level officials. Most communication is carried out through the artifice of an allegedly private entity, the American Institute in Taiwan (AIT), whose offices in both countries are staffed by people on leave of absence from the State Department.

DELICATE BALANCE

When Lynn B. Pascoe, the director of the AIT's Taipei office, called on Taiwan's foreign affairs minister on Sept. 7, he became a minor footnote to history. It was the first time since 1979 that the de facto senior American official in Taiwan was permitted to make such a visit.

The less-than-earth-shaking diplomatic breakthrough was occasioned by the Administration's Taiwan policy review, approved on Labor Day by the President while he was vacationing on Martha's Vineyard. Indeed, Pascoe's visit to the Foreign Ministry was to inform Taipei of the changes.

Billed as the first comprehensive review of Taiwan policy since 1979, the new policy strains to strike a balance between Taipei's growing desire for higher-level contacts with U.S. officials and Beijing's demands that America continue the pretense of not officially recognizing Taiwan as an entity separate from the rest of China.

The policy review keeps America's one China policy officially intact and reiterates that the United States does not back Taiwan's entry into the United Nations. It supports Taiwan's expected admission to the GATT, however, and says that Taipei's voice should be heard in other "appropriate" international groups, including the new forum on Asia-Pacific Economic Cooperation.

Visits to the United States by Taiwan's president and other top leaders are still forbidden, but the new policy specifically permits such officials to "transit" America. The latter provision responds to the congressional furor in May when Taiwanese President Lee Teng-hui's airplane made a refueling stop in Hawaii but was denied permission to stay overnight.

The key adjustment in the policy is to boost the octane of Washington's backing of U.S. corporate interests in Taiwan. The idea, Administration officials say, is not to raise the diplomatic stakes but rather to facilitate solving problems and doing business.

The policy sets guidelines based on the somewhat murky proposition that some government contacts are official but others are not. No meetings are to occur between senior officials, whose duties are considered to be primarily diplomatic, military or political. But officials "at a relatively senior level" whose portfolios involve commercial, cultural or technical issues will be permitted to get together.

To promote commercial and cultural ties and to foster a "sub-Cabinet economic dialogue" with Taipei, high-level U.S. officials from economic and technical agencies will now be permitted to go to Taiwan. Even visits by Cabinet officers involved with trade or technology appear possible, subject to case-by-case approval.

Senior Taiwanese officials visiting the United States would be barred from setting foot in such "official" sanctums as the White House, the Old Executive Office Building, the Pentagon and the State Department. But a meeting at the Commerce Department would be OK.

At the same time, State Department officials at the undersecretary level who have nonpolitical portfolios can now meet with senior Taiwanese visitors, just so long as they don't do so in their offices at Foggy Bottom.

Another mini-refinement permits the Taiwanese government representatives who are stationed in Washington to include the word "Taipei" in the same of their office, which currently bears the uninformative name of the Coordination Council for North American Affairs. The new title will be Taipei Economic and Cultural Representative Office in the United States.

A delegation of Taiwanese legislators recently passed through Washington on the way to a rally at the United Nations, whose agenda committee voted on Sept. 22, at the urging of the PRC, not to take up the question of representative for Taiwan. The lawmakers met with State Department officials on Sept. 21 to register their disappointment with the Clinton policy review, which Sen. Parris H. Chang, DPP member, described in an interview as "retrograde in certain respects." Albert Lin, the information director for Taiwan's Washington outpost, said his office's new title was selected from a list of acceptable options but was not his country's first choice.

KEEPING BEIJING HAPPY?

Beijing's reaction to the Clinton policy adjustment, although predictably negative, was perfunctory in tone. A government spokesman declared that Washington's action "interferes with the internal affairs of China" and "seriously" violates the three joint communiqués that form the basis of U.S. relations with Communist China. At the same time, however, the Chinese governments repeated an invitation to Clinton to come to Beijing for a summit meeting.

Taiwan's government offered lukewarm praise for the modest changes but complained that they don't go far enough. Its official response called the policy review "welcome" but added that "these adjustments have not sufficiently addressed the needs arising from the close relationship between the United States and the Republic of China."

In an interview, American Enterprise Institute for Public Policy Research director of Asian studies James R. Lilley, a U.S. ambassador to China during the Bush Administration, faulted the Clinton team for making too large a deal out of too small a change. "There should have been no review in the first place," he said, citing the fact that the Bush Administration, with no fanfare, had permitted Carla A. Hills, who then held Cabinet rank as U.S. Trade Representative, to visit Taiwan in December 1992.

"You just do these things," Lilley argued. "You don't put it out in the press [as a major policy review] and stick your tongue out at Beijing." Citing Commerce Secretary Brown's recent trade mission to China, he said that "Clinton ought to have Brown do the same thing in Taiwan."

That would be fine with Laux, whose business council lobbied the Bush Administration to permit Hills to address its 1992 conference in Taiwan. In December, the council will convene again in Taipei and hopes the highlight will be an appearance by a Clinton Cabinet officer.

Responding to the White House policy review, Laux pointed out that "more than 30 Cabinet-level officers from European and other countries have visited Taiwan in the last three-and-a-half years to promote the business interests of their companies." He added that despite Beijing's misgivings, those countries have been able to maintain diplomatic relations with China. "The sky has not fallen in on any of those countries," he said.

Acknowledging that during his tenure in government, he was "part of the process" that led to America's current China policy, Laux said, "I'm not blaming anyone in particular, but we have unnecessarily put ourselves in a straitjacket" in terms of trading with Taiwan.

For the ailing U.S. defense industry, Taiwan's prodigious appetite for armaments is a tempting target. Michael T. Klare, a military affairs expert at Hampshire College, said that "the China-Taiwan nexus probably constitutes the most vibrant arms market in the world today." Despite improved communications between the two Chinas, he noted, neither has repudiated historical claims to the territory of the other.

Although the Reagan Administration, in a 1982 communiqué with Beijing, agreed to reduce arms sales to Taipei, the 1979 Taiwan Relations Act authorizes U.S. contractors to sell Taiwan whatever is deemed necessary for its defense. And when Taipei appeared interested in buying French-built Mirage fighters, the Bush Administration responded by approving the 1992 sale of 150 U.S.-made F-16 fighters to Taiwan. Delivery of the advanced fighters is still more than a year away.

Klare, in an interview, noted that military technology acquired from other countries, including U.S. ships, aircraft and electronic equipment, is helping Taiwan establish its own defense manufacturing capacity through "reverse engineering."

Despite the F-16 deal, the American League for Exports and Security Assistance Inc., a defense industry trade association, has estimated that restrictions on arms sales to Taiwan have cost as much as $20 billion in U.S. revenues and affected more than 400,000 American jobs.

But military technology is not the only commodity that Taipei is in the market for. Having blossomed into the world's 20th-largest economy. Taiwan has entered into a massive six-year infrastructure improvement program to meet the demands of an increasingly affluent population of 21 million.

The U.S. Commerce Department has said that Taiwan's $235 billion national development plan creates the "largest market in the world today for major infrastructure projects," including up to $50 billion worth of foreign procurement for energy, pollution control, telecommunications and transportation projects.

Thus far, said William S. Botwick, president of the American Chamber of Commerce in Taipei, European bidders have won more than $5 billion in contracts under the Taiwan development plan, "four times more than U.S. firms have." Botwick, the General Motors Corp.'s managing director in Taiwan, said that he traveled to Washington twice last year to urge Administration officials to take bolder steps to "redress past slights" and restore "mutual trust" to the U.S.-Taiwan bilateral relationship.

After being upstaged by the highly publicized debate over extending preferred trading status to mainland China and its emerging market, Taiwanese interests are clamoring to remind Washington of their own business relationship and their government's success in reducing the U.S. trade deficit with Taiwan, while the deficit with mainland China has been growing.

The Washington lobbying firm of Cassidy and Associates, and its public relations affiliate, Powell Tate, recently signed a three-year, $4.5 million agreement to represent the Taiwan Research Institute, a private, nonprofit study center with ties to Taiwan's ruling party. With help from its U.S. consultants, the Taipei think tank joined the chorus condemning what it said was the timidity of the Clinton policy review.

A Powell Tate press release said that "if the United States sincerely wishes to recognize the remarkable progress of democracy in Taiwan, it should treat Taiwan officials with the respect and consideration it affords representatives of other democratic nations."

Taiwan's allies on Capitol Hill also weighted in. Sen. Paul Simon, D-Ill., said that Clinton passed by a golden opportunity to significantly revise long-outdated policies that today "seem like official pettiness." Simon lauded the development of free elections, multiple political parties and a free press in Taiwan and expressed dismay that "we continue to cuddle up to the mainland government, whose dictatorship permits none of those." Sen Frank H. Murkowski. R-Alaska, lamented that "bolder and more-substantive steps" were not taken. Sen. Hank Brown, R-Colo., alluding to U.S. willingness to engage North Korea directly, branded the policy review a "slap in the face to Taiwan."

Johns Hopkins Asian expert Clough, however, gave the Administration credit for maintaining the delicate balancing act that enables the United States to pursue relations with both Chinas. "At best, it's a marginal change in the management of our policy," he said of the Clinton review, "It's fascinating, the amount of ambiguity that's required," he added.●

TRIBUTE TO THE HONORABLE JOHN C. HARRISON

● Mr. BAUCUS. Mr. President, I wish to pay tribute to the Honorable John C. Harrison, who is retiring after many years of service on the Montana Supreme Court.

Justice Harrison has given a lot to Montana. Elected in 1960, he is the longest serving Supreme Court Justice

in Montana history. In fact, it is hard to imagine the Montana Supreme Court without "Judge John C.," as he is affectionately known. He is a member of the American Legion, V.F.W., Kiwanis, Montana Lung Association, and the Mental Health Association. And, as an Eagle Scout, he is very active with the Boy Scouts of America.

Before his rise to the court, Justice Harrison and the late Senator Lee Metcalf got their starts together in both the legal profession and Montana politics. And while their careers took them their separate ways, their close friendship endured.

I have known Justice Harrison and his family for many years. His son, Bob, worked for me in my Washington office, and his daughter, Nina Myrhe, grew up with me in Helena. As we like to say in Montana, "they're good people." And while Justice Harrison will undoubtedly miss playing an active role on the court, I know that he looks forward to spending more time with his family and traveling to his beloved Ireland.

So it seems appropriate to close this tribute with a traditional Irish blessing:

May the road rise to meet you
May the wind always be at your back
May the sun shine warm upon your face
May the rain fall soft upon your fields
And until we meet again
May God hold you in the palm of His hand.

Justice Harrison, the people of Montana thank you for your many years of service to our State, and wish you well in your future endeavors.●

WEST GARFIELD TAKES BACK ITS STREETS

● Mr. SIMON. Mr. President, the residents of the West Garfield section of Chicago are trying to take back their streets. They are peacefully confronting the drug pushers who brought violence and fear to their community. The West Garfield "Take Back the Streets" campaign is an effort not only to reclaim their neighborhood but to resume the peaceful coexistence that the neighborhood once enjoyed.

In 1993 alone, there were 94 murders in the West Garfield section due to the increase in gangs and drugs. The streets in the West Garfield area are the deadliest in Chicago. The people who live in these neighborhoods are tired of all the violence that has taken over the streets and now they want them back.

The citizens are making an attempt to rid their streets of drugs and violence. Most of the organizers and residents of the 40-day event realize that this will be a very difficult task. But they are encouraged by the success other communities across the country have had with these types of campaigns.

For 6 weeks the West Garfield neighborhood will sponsor job fairs, prayer vigils, voter registration drives, and youth activities. The campaign organizers are also seeking city support to clean up the vacant lots and demolish abandoned drug houses. They are also asking the court system to sentence gang members to community service along with fines or jail sentences.

The citizens of West Garfield ought to be commended for their efforts and more importantly for their courage. Their campaign has peacefully shown that they are tired of living in fear. They have transformed that fear into the determination to drive the drugs and violence out of their neighborhood forever.

Mr. President, I ask that a Chicago Tribune article on West Garfield's campaign and other material be printed in the RECORD.

The material follows:

[From the Chicago Tribune, Sept. 30, 1994]

DRUG BUYERS, STAY AT HOME; MARCHERS TAKE MESSAGE TO SUBURBS

(By John W. Fountain)

Six-year-olds Darryl Glass and Parcha Mahomes teamed up for a mission Thursday in a place not far from home but worlds away from their drug-infested West Garfield neighborhood.

Wearing smiles and sneakers, the friendly schoolmates toted a bright red banner amid a band of lively protesters outside a Chicago Transit Authority "L" station in Forest Park. The banner read: "Give our kids a chance."

"We're holding this because we want to hold it," Parcha, said. That wasn't the only reason, said Darryl, who quickly chimed in: "It's for the dope march!"

Darryl and Parcha were among about 100 West Garfield residents who took their fight to save their neighborhood to the suburbs, where police say many people who buy drugs in the city live.

Organizers chose the Des Plaines Avenue stop of the CTA's Congress train line in Forest Park because it is where many suburbanites park and ride to their downtown jobs.

The march, speckled with songs and cheers, came a day after Chicago police arrested 100 people in a reverse drug sting in the Harrison police district, which contains the West Garfield neighborhood. Police arrested drug dealers in the 1000 block of South Springfield Avenue, and moved in undercover officers in their place.

Within two hours, police arrested 100 people who attempted to purchase drugs, officials said.

The reverse sting is part of an effort to fight the drug trade on all fronts by arresting not only dealers but also buyers. In reverse stings conducted by Harrison District this summer, police found up to 80 percent of the buyers live outside the neighborhood where drug buys were attempted. Some of those arrested live in the suburbs.

"They don't want it to be known," said John Glass, Darryl's grandfather, who attended the rally. "But we have seen them come into our neighborhood and buy drugs. We have taken down their license plates (numbers)."

Of the 100 people charged Wednesday with attempting to buy drugs, 51 were from Chicago, 18 from the suburbs and one lived in another state, police records show.

Wednesday's arrests included residents of Oak Park, North Chicago, Cicero, Bellwood and Harvey. In previous stings, arrestees were from suburbs that included Lake Zurich, Evanston, and Hoffman Estates.

Since April, more than 1,000 people were nabbed in reverse stings in the Harrison district. Many of them were arrested in West Garfield, where the drug trade has intensified due apparently to pressure in neighboring districts that engage in community policing.

In Wednesday's sting, police also seized 27 vehicles. Five of those arrested in the sting had warrants outstanding, police said.

West Garfield, in the heart of the West Side, in recent years has become a portrait of gangs, drugs and violence. It is in the city's deadliest police district, where 94 people were killed last year.

Violent crime here has soared, authorities say, largely because of the fight for control of a lucrative drug trade. And the success of community policing in neighboring police districts has pushed dealers into the area.

Still, vigilant residents aim to turn the tide.

The march in Forest Park was spearheaded by Bethel Lutheran Church and is part of a 40-day vigil began earlier this month with the help of West Garfield churches and community organizations.

The effort, dubbed "Take Back the Streets," involves a host of activities, including prayer vigils, candlelight services and family gatherings on Friday evenings outside Bethel Church, 4215 W. West End Ave.

Thursday was the 23rd day. And despite their effort after nearly a month, spirits and energy were high.

That was evident in the song and quick steps of protesters, who marched back and forth in front of the "L" station through the afternoon.

"Are you ready?" a voice blared over a loud speaker as the march got under way.

"Yes," the crowd roared back.

The voice blared again. "All right. This is God's Army."

"We're here to tell the commuters to take back the message that there is a collage of drug activity coming into our community," said Ald. Ed Smith (28th), also at the rally. "The important thing here is that we save the children."

John Glass, who spent the evening handing out fliers, agreed.

"It means that my grandson will not get hooked up in drugs and gangs," said John Glass. "Drugs and gangs has got to go."

"We deal in hope," Glass said. "Not dope."

[From the Chicago Tribune, Sept. 18, 1994]

NEIGHBORS TAKE BACK THEIR STREETS

They stayed up all night, walking the sidewalks with candles burning, singing gospel hymns and saying prayers for the neighborhood's drug dealers and gang-bangers, most of whom slunk away to avoid the attention.

It was a 24-hour prayer vigil, the beginning of a 40-day "Take Back The Streets" campaign run by the churches and community groups of West Garfield Park on Chicago's West Side.

The vigil also marks the spread of a welcome trend: law-abiding citizens peacefully confronting the gun-toting pimps and pushers who have turned their neighborhoods into urban war zones.

From Rogers Park to Roseland, from Austin to Humboldt Park, ordinary people fed up with curbside drug dealing and nightly shootings are gathering in the streets and in church basements, speaking out against the punks who have laid siege to their neighborhoods.

On a wider scale, thousands of Chicagoans participated in Gang Awareness Week, which concludes Sunday at a North Side church with a memorial service for victims of street violence.

Such events will not, by themselves, put an end to the epidemic of drug dealing and gang shooting that has sickened so many neighborhoods in the city and suburbs. But they are hugely important nonetheless, because they send a loud message that the law-abiding majority is not going to surrender their neighborhood to a law-breaking minority.

"Residents are tired of living in fear," said Mary Nelson, director of Bethel New Life church in West Garfield Park. "So we've banded together to take back the streets for ourselves and our children."

So over the next six weeks the streets of West Garfield, which at times have become clogged with the slow-moving cars of dope buyers, will be alive instead with prayer vigils, job fairs, voter registration drives and, on Friday nights, a Family Fun Fest that will reclaim the corner of West End and Keeler Streets for kids' games and gin rummy.

Nelson and Ald. Ed Smith, who helped organize the campaign, also are seeking city support to clean up vacant lots and demolish abandoned drug houses. They're asking the criminal court judges to sentence gang members to community service and they want newspapers to publish the names of outsiders arrested in their neighborhood for attempting to buy drugs.

Good ideas all. So are the community policing techniques which Nelson credits with working so well in the Austin neighborhood that many drug dealers moved east into West Garfield Park.

Now she's out to move them again by proving the streets belong to the people, not to the punks.

[From the Chicago Sun-Times, Sept. 8, 1994]

WEST GARFIELD PARK SWIPING AT DRUGS, GANGS

Vowing to "take back the streets" of their West Garfield Park neighborhood, area parents and teachers have launched a 40-day campaign to break the grip of fear that gangs and drug pushers hold over the area.

"More than 100 drug active spots have been identified in the 11th (police) District" that serves the West Side community, said Laurie Glenn, spokeswoman for Bethel New Life Inc., one of the campaign organizers.

"The next worse (police) district is contending with only about 30" drug hot spots, she said. "People are frightened and they are ready to do something about it" in the area bordered by Roosevelt, Kinzie, Kostner and Central Park.

The effort began Wednesday night with a 24-hour fast and prayer vigil at the Bethel Lutheran Church, 4215 W. West End.

Activities continue today with a human "corridor of safety" in which teachers, parents and city officials will join hands to give students at three elementary schools there safe passage after school. Glenn said Mayor Daley will participate.

[From Neighborhood Partnership, Chicago, IL]

TAKE BACK THE STREETS

WEST GARFIELD PARK-NEIGHBORHOOD SAFETY ZONE

(1) 40 Day (6 month) Campaign Kick Off: 24 Hour Prayer Vigil-Keeler and West End. Human Chain of Safety—Tilton, Bethel, Marconni School—Mayor. Family Fun Fest in street—prayer vigil. Family fun fare in Mason Park. Five churches conclude out in the Street on Sunday.

(2) Activities in Streets during campaign: Friday evening—Family Fun Nights—Westside artists performing. Friday evening—Prayer vigils until Midnight. Food, children's events (see current schedule). Voter Registration, Job Fair, Lead Van in streets during campaign.

(3) Operation Clean Up: Clean off vacant lots. Lighting in dark areas. Fencing in vacant passageways of dealers. Streets and Sanitation clean up. Community clean up ongoing during campaign.

(4) City Co-operation: One way streets; stop signs; cul de sacs. Clean off the streets. Clog up streets with resurfacing. Abandoned buildings, hot spot—demolitions, etc.

(5) Neighborhood Safety Zone Ordinance: Process of input, introduction. Available to neighborhoods. Courts, penalities. Newspapers publishing the buyers names and addresses. Demonstration in the suburbs—Stay out of our community.

(6) Alternatives for users and sellers—proactive approach: Healing alternatives—Substance abuse opportunities. More residential rehab needed. Jobs Jobs, Jobs, job fair, employment services. Youth Center, youth alternatives—$ needed to carry on programs.

PARTICIPATING GROUPS

Alderman Ed Smith—28th Ward; Argonne National Laboratory; Bethel New Life, Inc.; Bethel Christian School; Bethel Lutheran Church; Campaign for a Drug Free West Side.

Chicago Alliance for Neighborhood Safety & VISA Project; Chicago Fire Department—4th District; Chicago Police Department—11th District; Christ English Lutheran Church; Church of Christ (Maypole Ave.).

City of Chicago: Dept. of Planning, Streets and Sanitation; City-Link: Mid American Leadership Council; Concerned Citizens Inc.; Corinthian Church of God in Christ; Mayor Richard Daley, City of Chicago; Delegation for Christ Chorale.

ELCA/Division for Congregational Ministries; Evangelistic Outreach Ministry; First Baptist Congregation; Gammon United Methodist Church; Garfield Austin Interfaith Network; Greater Garfield Chamber of Commerce; Guardian Angels.

Illinois Criminal justice Authority; Interfaith Organizing Project (IOP); Keystone Baptist Church; Loretto Hospital; Lutheran Church of the Atonement (Barrington); Marconi Elementary School; Metropolitan Missionary Baptist Church; Mt. Sinai Missionary Baptist Church #2.

National Training and Information Center; New Mt. Pilgrim Baptist Church; Northwest Austin Council; Operation Push; Princeton '55; Project Clean; Redeemer Lutheran Church (Hinsdale).

SACC (South Austin Community Coalition); Seminary Consortium for Urban Pastoral Education (SCUPE); Senator Paul Simon's Office; Southminster Presbyterian Church (Glen Ellyn); Tilton Elementary School; The Habitat Company; The Neighborhood Partnership; United Way of Chicago.

Urban Studies Program—ACM; West Garfield Chamber of Commerce; Westside Health Authority; Westside Ministers Coalition; Westside Small Business Development Center.●

DEADLY GANG VIOLENCE

● Mr. SIMON. Mr. President, while gang violence has been a national problem for decades, it has become even more deadly in recent years. In place of the knife and chain rumbles of the 950s, today's gangs are heavily armed with automatic weapons capable of mass destruction. A recent report from the National Institute of Justice (NIJ) on Street Gang Crime in Chicago details over a three-year period, 1987–1990, the role of guns, especially automatic and semiautomatic weapons, in the dramatic increase in lethal killings of young people in Chicago.

This report concludes that a gun was the lethal weapon used in almost all gang-motivated homicides. Use of high-caliber, automatic, or semiautomatic weapons dramatically increased. Overall the number of street gang-motivated homicides increased from 51 in 1987 to 101 in 1990. The number killed with an automatic or semiautomatic (any caliber) or with a nonautomatic gun of 38 caliber or higher increased from 24 to 70. The report concludes that virtually the entire increase in the number of street gang-motivated homicides seems attributable to an increase in the use of high-caliber, automatic, or semiautomatic weapons.

Unfortunately, the trend in Chicago is not unique. The use of high-power weapons by street gangs is a nationwide problem, with suburban and rural areas reporting increasing incidences of gang-related violence. At the same time, the NRA is taking credit for the defeat of some of the legislators who courageously voted for the Brady law and the assault weapons ban. And many in Congress are talking about an effort to repeal those important initiatives. This is not the time to backpedal. Our young people, both gang members and innocent bystanders, are literally being gunned down on the streets of our communities. We must stand up to those who would do nothing. We must follow the policy advice in the NIJ report: reduce the availability of the most dangerous weapons.●

Mr. MOYNIHAN. Mr. President, I suggest the absence of a quorum, as there may be somebody else coming to speak in morning business.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MOYNIHAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS UNTIL TOMORROW AT 9 A.M.

Mr. MOYNIHAN. Mr. President, if there is no further business to come before the Senate today, I ask unanimous consent that the Senate stand in recess under the previous order.

There being no objection, the Senate, at 7:35 p.m., recessed until Thursday, December 1, 1994, at 9 a.m.